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FORESTRY BILL 2025
(BILL NO. __ OF 2025)

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AN ACT TO PROVIDE FOR THE PLANNED MANAGEMENT AND CONSERVATION OF FIJI'S FORESTS AND TO FOSTER THE DEVELOPMENT OF FIJI'S FOREST INDUSTRY IN ALIGNMENT WITH NATIONAL POLICY, RESPECT FOR TRADITIONAL LANDOWNER RIGHTS, AND THE PRESERVATION OF ECOLOGICAL INTEGRITY THROUGH SUSTAINABLE RESOURCE MANAGEMENT AND COMPLIANCE WITH ENVIRONMENTAL LAWS AND INTERNATIONAL BEST PRACTICE AND OTHER 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 Forestry Act 2025.

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

Interpretation

2. For the purposes of this Act, unless the context otherwise requires—

“afforestation” means the direct human-induced conversion of land that has not been forested for a period of at least 30 years into forest, through planting, seeding and/or the human-induced promotion of natural seed sources;

“alienated land” means—

- (a) land, the ownership of which is held by a person other than the State; or
- (b) State and iTaukei land which has been leased to a person other than the State;

“approved international emissions reduction standard” has the meaning in section 2 of the Climate Change Act 2021;

“carbon stocks” has the meaning in section 2 of the Climate Change Act 2021;

“Code of Forest Practices” means the code issued by the Minister in accordance with this Act;

“conservation” means planned management, including sustainable use, of a natural resource to ensure the long-term maintenance of important natural and cultural values for present and future generations, and to prevent over-exploitation, destruction, or neglect;

“Conservator” means the Conservator of Forests appointed in accordance with section 7 of this Act;

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“Conservator’s certificate” means a certificate issued and signed by the Conservator of Forests under section 67;

“Council” means the Forestry Advisory Council established under section 14 of this Act;

“damage” means loss or detriment caused by hurt or injury affecting estate, condition, or circumstances, or injury, harm, especially physical injury to a thing so as to impair its value or usefulness;

“deforestation” means the direct human-induced conversion of forested land to non-forested land;

“degradation” means the reduction in the capacity of a forest to provide goods and ecosystem services, which includes, but is not limited to, deterioration in forest structure, function, species composition, or productivity, without a full conversion to non-forest land use;

“Department of Forestry” means all sections, units, and personnel included under the Department of Forestry and headed by the Conservator of Forests;

“ecosystem services” means all benefits that humans derive from forest, including provisioning services such as timber and non-timber products; regulating services such as carbon sequestration, climate regulation, water purification and erosion control; supporting services such as nutrient cycling, soil formation and biodiversity conservation; and cultural services such as recreation, spiritual, social and cultural value, and aesthetic enjoyment;

“emissions” has the meaning in section 2 of the Climate Change Act 2021;

“emissions reduction” has the meaning in section 2 of the Climate Change Act 2021;

“emissions reduction activity” has the meaning in section 2 of the Climate Change Act 2021;

“emissions reduction programme” has the meaning in section 2 of the Climate Change Act 2021;

“emissions reduction project” has the meaning in section 2 of the Climate Change Act 2021;

“emissions reduction unit” has the meaning in section 2 of the Climate Change Act 2021;

“Fijian Mitigation Outcome Unit” has the meaning in section 2 of the Climate Change Act 2021;

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“fire hazard area” means an area especially prone to fire due to its type and status of vegetation;

“fire hazard period” means either the period between 1 July and 31 December in any year or a period announced by the Conservator and by notice in the Gazette;

“Fire licence” means a licence issued under section 51(3) of this Act;

“Fixed penalty notice” means a notice issued under section 63 of this Act;

“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 the height and canopy cover criteria in paragraph (a) are met;
- (c) forest roads, fire breaks and other small open areas;
- (d) areas defined by both the presence of trees and the absence of other predominant land uses;
- (e) mangrove forest; and
- (f) areas that met one the above definitions of forest at the time this law entered into force and were subsequently cut down, destroyed, degraded, or converted without the required authorization, or were harmed or lost due to natural disasters;

“forestry officer” means any officer in public service appointed to serve in the Department of Forestry as the deputy conservator of forests, principal forestry officer, senior forestry officer, forestry officer, forester or forest guard;

“forest owner” means the title holder of the land on which the forest grows;

“forest plantations” means forest stands established by planting or seeding in the process of afforestation or reforestation which are either of introduced species (all planted stands) or intensively managed stands of indigenous species;

“Forest practices” means

- (a) the processes involved in establishing forests, growing or harvesting timber, or clearing trees; and
- (b) works (including the construction of roads, the development and operation of quarries and the processing of timber) connected with establishing forests, growing or harvesting timber or clearing trees;

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- “Forest Practices Officer” means a suitably qualified person with at least 5 years of relevant experience in forest planning, operations or timber processing, who is appointed by the Conservator;
- “Forest practices plan” means a written document, certified by the Conservator of Forests under section 25 of this Act, detailing how forest practices will be conducted in a specific area to meet the requirements of this Act;
- “forest products” includes wood and non-wood forest products or by-products harvested from the forest for either commercial or subsistence purposes;
- “forest reserve” means a forest area declared by the Minister in accordance with section 21 as a forest reserve for the protection of forest biodiversity, including the conservation of forest genetic resources, or the national interests;
- “forest user” means a person or legal entity making use of wood or non-wood forest products;
- “forest sector” comprises of all actors involved in and all activities undertaken on forests and forest products;
- “Forestry Advisory Council” means the body established under section 14 of this Act;
- “Forestry and licensing committees” means the bodies established under section 12 of this Act;
- “High Conservation Value Forest (HCVF)” means forests that possess outstanding environmental, social, or ecological significance and are recognized for their unique biodiversity, vital ecosystem services, or cultural importance to local communities [\[and are leased under the iTaukei Lands Trust Act 1940\]](#);
- “indigenous species” means any species that originated naturally in Fiji;
- “invasive species” means an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health and biodiversity;
- “iTaukei customary rights” means rights, which are acquired by custom by iTaukei, they being rights of individuals, independent of their place of residence;
- “iTaukei land” means land which is neither State land nor the subject of a State or iTaukei grant, but includes land granted to a mataqali under section 18 of the iTaukei Land Trust Act 1940;

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“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 same meaning as iTaukei owners in section 2 of the iTaukei Land Trust Act 1940;

“landowner” includes—

- (a) the Government for State land; or
- (b) the owner or titleholder of freehold land; and
- (c) iTaukei land owners;

“licence” means any licence issued under this Act;

“licensee” means a person or business that holds an approved licence under this Act;

“licensing officer” means the officer authorised to issue a licence under this Act;

“livestock” includes but is not limited to horses, mules, cattle, sheep, pigs, goats and poultry;

“mangrove forest” means a forest type predominantly made up of tree and shrub species that grow in saline and tidal tropical and subtropical coastal habitats;

“Minister” means the Minister responsible for the Department of Forestry;

“multiple use forests” means forests to be maintained under permanent forest cover for the production of wood and non-wood forest products, as well as the sustainable provision of other ecosystem services, including climate change adaptation;

“National Forest Policy” means the prevailing Fiji Forest Policy endorsed by the Minister responsible for the Department of Forestry;

“National forest resources assessment” means an assessment of forest resources at the national level;

“National Heritage Site” means any site considered to have outstanding universal value to the World Heritage List and declared as such by the Government of Fiji in accordance with the National World Heritage Policy for Fiji;

“native forest” means a forest composed of indigenous trees and not classified as forest plantation;

“nature reserve” means forest areas designated by the Minister, which possess outstanding or representative ecosystems that must be managed for the exclusive purpose of permanent conservation of their environment, including

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soil, water, internal climate, flora, fauna, fungi, the genetic diversity of these living organisms and the interactions among all these components;

“non-wood forest products” means all forest products except wood, including but not exclusively, wildlife, fruits, nuts, seeds, leaves, roots, bark, flowers, herbs, spices, fibres, resins, latexes, oil, tar, honey, bees wax, all types of fungi, litter, humus, peat, minerals, stones and clay;

“officer” means any forestry officer, police officer, or biosecurity officer;

“Permanent Secretary” means the permanent secretary responsible for the Department of Forestry;

“pests” includes organisms—

- (a) that are undesirable or detrimental to the interests of humans, and
- (b) capable of causing injury or damage to the forest ecosystem, its components, including litter, soil, water, animals, plants, the forest internal climate or wood or non-wood forest products;

“protect” means to restrict, exclude or apply management actions to conserve important natural and cultural values, including the maintenance and enhancement of biological diversity, ecological health, water quality, soil conservation, cultural heritage and landscape aesthetics;

“protected areas” means any defined space where the primary management objective is to protect natural and cultural values whether by community declaration or legal instrument and may include areas that are subject to a conservation leases issued under the iTaukei Lands Trust Act 1940;

“protected forests” means protected areas which are maintained under permanent forest cover;

“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;

“reforestation” is the natural or intentional restocking of existing forests and woodlands that have been depleted, usually through deforestation, but also after clearcutting, other human activities or natural disasters;

“restoration” means the process of assisting the recovery of a degraded, damaged, or destroyed forest with the aim of re-establishing its ecological integrity, biodiversity, and capacity to provide ecosystem services and support sustainable livelihoods;

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“royalty” means a payment reserved by the grantor of a lease or similar rights and payable proportionately to the use made of the right by the grantor;

“sandalwood” means any timber of the genus *Santalum*;

“species” means any species or subspecies whether or not geographically separate population of the species or subspecies;

“stakeholder” means a person, group or organisation that has direct or indirect interest in an organisation or activity whether from government, civil society or the private sector;

“State land” has the same meaning under section 2 of the State Lands Act 1945;

“sustainable forest management or sustainable management of forests” means a concept which aims to maintain and enhance the economic, social and environmental values of all types of forests and their ecosystem services for the benefit of present and future generations;

“timber” means any wood at any stage after a tree has been felled, and includes materials such as sawn timber, veneer, poles, posts, fuel wood, charcoal, woodchips, wood pulp and small wood items such as carvings;

“Tribunal” means the body established under Part 11 of this Act;

“tree” means any woody plant with a height or potential height of 5 metres or more, whether or not it is living, dead, standing or fallen, that is: (1) a species native to Fiji; or (2) a species introduced into Fiji and used for the harvesting of timber;

“trees outside of forests” means all trees and shrubs found outside of defined forest areas, including those in agricultural lands, urban areas, and along roads;

“un-alienated land” means land not under any formal leasing or customary arrangement;

“wood” means the hard, fibrous substance that makes up the stems and branches of a tree and includes coconut trees and bamboo;

“wood processing” means the conversion of wood into timber products, including-

- (a) Logs for export
- (b) Fuel wood
- (c) Poles, piles or posts
- (d) Sawn, sliced or peeled timber
- (e) Wood chips or Wood pulp
- (f) Wood shavings
- (g) Timber that is treated with preservative or other chemicals

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- (h) Wood based biochemicals
- (i) Engineered wood products.

Application

3. This Act binds the State.

Objectives

4. The Objectives of this Act are to provide a legal framework for, continuing improvement towards the achievement of-

- (a) sustainable and planned forest management and utilization through an ecosystem-based approach, including ensuring the long-term health and productivity of forests, balancing economic, social, and environmental considerations;
- (b) conservation of Fiji's native forest ecosystems, with emphasis on biodiversity, soils and water values, including the long-term maintenance of genetic resources and evolutionary potential;
- (c) equitable distribution of social and economic benefits from sustainable forestry to all Fijians, involving fair access to forest resources, benefit-sharing mechanisms, and recognition of traditional knowledge;
- (d) integrated, transparent and efficient government forest management, in close collaboration with traditional leadership, promoting interagency coordination, streamlined forestry approval processes, and effective enforcement of regulations;
- (e) climate change mitigation and adaptation, recognizing the role of forests in carbon sequestration, reducing deforestation and forest degradation, and enhancing forest resilience to climate impacts;
- (f) sustainable promotion of ecosystem services, valuing and protecting the diverse services that forests provide; Enhancement of community participation and rights, ensuring the involvement of local communities, iTaukei owners, and other stakeholders in forest management decisions, and respecting their rights;
- (g) promoting forest restoration and reforestation, with initiatives that support the recovery of degraded forest land, and the increase of forested areas;
- (h) promoting the establishment and management of trees outside of forests, including in agricultural and urban areas to provide environmental, economic, and social benefits.
- (i) ensuring legal timber trade, and preventing illegal logging, with actions to support the trade of legally harvested timber, and to prevent the trade of illegally logged timber;
- (j) encouraging and facilitating the use and advancement of the best scientific knowledge, technological practices, and approaches in decision-making — including administrative and judicial procedures — to support the protection, conservation, restoration, and ecologically sustainable management and use of forests;
- (k) promotion of research and education, supporting the growth of knowledge, and the education of the populace on sustainable forest management, and the importance of forests; and

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- (l) advancing a sustainable forest-based bioeconomy while ensuring environmental sustainability and fostering economic diversification and job creation;
- (m) to promote a high-value forest industry, by facilitating value added processing, enhancing product quality, promoting certification and sustainable branding, and expanding access to international markets for legally and sustainably sourced forest products;
- (n) to support the development of essential infrastructure and institutional capacity necessary for the growth of a competitive forest sector, including investment in transportation, processing, research and development, training, and technological advancement;
- (o) to ensure the formulation, coordination, and implementation of integrated policies, strategies, and action plans that provide a clear framework for forest sector development, aligned with national priorities; and
- (p) to establish and support market-based instruments that encourage investment in sustainable forest enterprises, innovation, and compliance with international standards.

Principles

5. This Act must be implemented in accordance with the following principles:
- (a) inclusive Participation, including active multi-stakeholder engagement in forest management decisions and recognition and respect for iTaukei owners' rights to traditional lands and resources;
 - (b) transparent Accountability, including public access to forest-related information and data, clearly defined roles and responsibilities for all actors, and established mechanisms for monitoring, evaluating and regular public reporting of standards being achieved with respect to management practices;
 - (c) legal Certainty, including the development of clear and enforceable legal frameworks, consistent and equitable application of forest laws, and provision of accessible justice for dispute resolution;
 - (d) sustainable Management, including the adoption of a long-term, holistic approach to forest management, implementation of ecosystem-based management strategies, and application of the precautionary principle to safeguard ecological integrity;
 - (e) effective Governance, including the promotion of interagency coordination and stakeholder collaboration, implementation of adaptive management strategies based on monitoring, and investment in capacity building for forest management professionals; and
 - (f) equitable Benefit Sharing, including ensuring fair and equitable distribution of forest resource benefits, addressing social inequalities related to access and use of forest resources, and consideration of intergenerational equity in resource utilization.

General Obligations

6. (1) *Duty to conserve and sustainably manage and restore forests.* State entities and all natural and legal persons have a duty of care to prevent harm to forests, including harm caused by third parties, to sustainably manage the forest for present and future

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generations, and to contribute to the conservation of natural and cultural values. They are also responsible for pursuing the restoration of degraded forests under their control to a healthy ecological state and, where appropriate, promoting reforestation.

(2) *Duties of the State.* The State shall establish and maintain effective and transparent forest governance and take all necessary measures to:

- (a) ensure compliance with forest laws and prevent illegal deforestation and degradation;
- (b) respect the rights and knowledge of indigenous peoples and local communities;
- (c) enable full public participation and transparency in forest-related decisions;
- (d) prevent deforestation displacement (leakage) and mitigate risks of reversals or rebound effects.

(3) *Due Diligence in Forest Trade.* All persons engaged in the trade of timber, wood, or non-wood forest products shall take reasonable measures to ensure the legality of their operations and to prevent their activities from causing or contributing to deforestation or forest degradation.

PART 2—GOVERNANCE

Conservator of Forests

7. (1) A Conservator of Forests, who shall administer the Department of Forestry and the forest sector, shall be appointed by the Permanent Secretary with the approval of the Minister.

(2) A person appointed as Conservator must have –

- (a) extensive expertise in forestry and forest operations; and
- (b) knowledge of the conservation and sustainable management of forests; and
- (c) management skills; and
- (d) a degree in forestry, forest management, forest sciences or comparable training.

(3) Pursuant to the Objectives and Principles of this Act, the functions of the Conservator include to:

- (a) direct Fiji's Department of Forestry;
- (b) enforce the provisions of this Act and its regulations;
- (c) periodically review forestry regulations, fees, levies, and services;
- (d) develop, coordinate and facilitate the implementation of the National Forest Policy and other policies and strategies through a consultative approach with forest owners, the forest industry and other stakeholders;
- (e) advise Government on forest-related matters under international agreements and conventions, in close collaboration with relevant government agencies, including the Department of Environment and Climate Change Division;

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- (f) ensure accountability to and coordinate with the Permanent Secretary regarding staff employment under the Civil Service Act 1999 and prevailing employment law;
- (g) prepare the Code of Forest Practices and make recommendations to the Minister with respect to the issue and amendment of the Code;
- (h) issue and maintain codes of conduct for Forest Practices Officers;
- (i) oversee standards for forest practices plans;
- (j) oversee the training of forest practices officers;
- (k) appoint forest practices officers;
- (l) make determinations with respect to prescribed fines for offences under this Act;
- (m) provide an annual report to the Minister on the operation of this Act.
- (n) supervise, advise and liaise with the Deputy Conservator and principal officers;
- (o) promote negotiation on external financial and technical assistance;
- (p) approve forestry programmes and projects;
- (q) provide advice, determinations and, as appropriate, consents as required or requested under the Climate Change Act 2021 or any other relevant written laws;
- (r) exercise such other functions and authorities as may be prescribed and directed by the Minister; and
- (s) direct the Department of Forestry to undertake annual monitoring and reporting on compliance and standards being achieved with respect to activities under this Act.

(4) It shall be the ongoing duty of the Conservator to advise the Minister, as necessary, on issues pertaining to forest policy and the administration and enforcement of this Act.

Department of Forestry

8. The Department of Forestry, under the direction of the Conservator and in accordance with the Objectives and Principles of this Act, shall perform the following duties —

- (a) plan, monitor and control the—
 - (i) sustainable management, conservation and if necessary, restoration of all forest resources in all types of forests for the provision of timber and non-timber products and ecosystem services; and
 - (ii) conservation of protected areas in collaboration with Department of Environment, Ministry of Lands, Ministry of iTaukei Affairs, and the iTaukei Land Trust Board;
- (b) carry out the national forest resources assessment, including inter alia the most important forest functions, ecosystem services and forest health, collect other important information about forest resources, and make these data publicly available free of charge, promptly, transparently;
- (c) ensure that all forest-related regulations and guidelines reflect sustainable forest management practices and that they are developed in a multi stakeholder approach;

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- (d) certify forest practices plans in all forest types, both natural and planted and monitor their proper implementation in accordance with delegations issued by the Conservator of Forests;
- (e) identify and promote reforestation and afforestation on suitable sites and rehabilitation of degraded forest areas;
- (f) promote and provide technical advice to and for community forestry programs and programs for trees outside of forests, including agro-forestry and urban tree schemes;
- (g) develop and implement research, management, conservation and restoration programs for forest resources and natural and cultural values, and traditional knowledge including biodiversity, soils, water, geodiversity, visual landscape, historic and traditional sites, in collaboration with other agencies;
- (h) promote value-added processing of forest products;
- (i) take appropriate measures to investigate, prevent, and suppress forest destruction, forest degradation, forest fires and forest clearings;
- (j) promote public education programs and foster training of forest owners on sustainable forest management; and
- (k) promote international cooperation to strengthen the capacity to protect and develop forest resources.

Delegation by the Conservator

9. (1) Subject to subsection (2), the Conservator may delegate any of his/her functions or powers other than this power of delegation, including delegating to Forest Practices Officers the powers to certify plans and issue notices under Part 4 and Part 5 of this Act.

(2) A delegation under subsection (1) may be unconditional or, if the instrument of delegation so provides, conditional.

Forestry and licensing committees

10. For the purposes of this Act, the Conservator may appoint committees, including forestry and licensing committees, to deal with matters relating to forests, the processing of forest products, applications made under this Act, and any other forest-related matters.

Functions of the forestry and licensing committees

11. (1) A forestry and licensing committee is established to advise the Conservator on a particular matter or matters for which the committee was formed.

(2) The Conservator shall appoint members to a forestry or licensing committee based on their demonstrated expertise in the specific matter for which the committee is established.

Forestry Advisory Council

12. (1) This section establishes the Forestry Advisory Council to promote stakeholder engagement in the operation of this Act, consistent with the functions outlined in this Part.

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(2) The Council will be appointed by the Minister and must include the following members—

- (a) a representative from the iTaukei Land Trust Board as the chairperson;
- (b) the director of town and country planning or his or her senior representative;
- (c) the director of lands or his or her senior representative;
- (d) the director of environment or his or her senior representative;
- (e) the director of the department of agriculture or his or her senior representative;
- (f) a senior officer of a body representing the forest harvesting and processing sector;
- (g) two individuals who are not public officers, with each individual representing a distinct perspective from one of the following sectors: landowners, forest owners, forest users, academia, and civil society.

(3) The Conservator shall attend all meetings of the Council and provide secretarial support.

Functions and Meetings of the Forestry Advisory Council

13. (1) The Council shall meet at least three times a year and may convene at other times as the chairperson considers necessary to advise on any other matter.

(2) A quorum at all meetings of the Council is six members.

(3) The functions of the Council are as follows:

- (a) to review and provide comments to the Conservator on any matters referred to it by the Conservator.
- (b) to provide comments regarding the application of the Code of Forest Practices, including the revision and issuance of new codes, associated supporting documents, and guidelines.
- (c) to promote the administration of this Act through cooperative engagement among stakeholders.
- (d) to promote and foster education, training, research, and the continuous improvement of Fiji's forest management systems.

Forestry Associations

14. Forest owners, stakeholders in the forestry industry and forestry professionals may form an association to represent and promote their interests.

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National Forest Policy

15. (1) The forest sector shall be administered in accordance with the National Forest Policy and associated plans and policies of the Department of Forestry, while also considering evolving scientific knowledge, stakeholder input, and changing environmental conditions.

(2) The Conservator must conduct a review of the National Forest Policy at least every five years. This review must be informed by consultations with the Forestry Advisory

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Council and relevant agencies, organisations and other forest stakeholders, as a mechanism for ensuring the National Forest Policy's ongoing suitability.

Research, knowledge transfer and capacity building

16. The State shall establish and maintain research institutions, promote scientific research, technological development, ensure knowledge transfer and build capacity for forest protection, conservation, sustainable forest management and utilisation, wood processing and wood utilisation.

National forest Cover monitoring and planning

17. (1) The Department of Forestry shall implement a technology-driven system, including satellite imagery and remote sensing, for efficient monitoring of forest cover, condition assessment, change detection, and regular evaluation.

(2) The Department of Forestry should conduct landscape-level forest planning using a cross-sectoral approach to harmonize environmental, social, and economic objectives. This should aim to align sectoral plans (forestry, agriculture, mining, infrastructure, etc.) with environmentally sustainable development goals.

(3) The Department of Forestry should involve multiple stakeholder groups to ensure balanced consideration of all perspectives at a landscape level of forest planning.

(4) To ensure the effectiveness of such landscape-level plans, the Department of Forestry must regularly monitor their implementation and adopt an adaptive management approach through revisions and updates.

(5) The Department of Forestry will ensure public access to monitoring results and landscape-level plans by making them available free of charge, promptly, transparently, and electronically.

Forest classification

18. (1) The Department of Forestry must classify forests based on forest functions, ecological characteristics and management regimes in the following categories and may use beacons, boundary marks, fences or notices to visibly denote these classifications—

- (a) multiple use forests;
- (b) forest plantations; and
- (c) protected forests which may also include:
 - (i) mangrove forests;
 - (ii) National Heritage Sites; and
 - (iii) forest and nature reserves; and
 - (iv) High Value Conservation Forest, including conservation leases.

(2) Any person, who without lawful authority, damages, alters, shifts, removes or interferes in any way whatsoever with any beacon, boundary mark or fence, notice or notice board erected by the Department of Forestry for the purposes of subsection (1) commits an offence. This is an offence of absolute liability and may be designated as fixed penalty offence.

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Declaration of nature reserves and forest reserves

19. (1) The Minister may by notice in the Gazette, upon recommendation of the Conservator, and in consultation with the Director of Lands, declare any of the following classes of land already reserved for another public purpose to be a nature reserve, a forest reserve or a protected mangrove forest—

- (a) un-alienated State land;
- (b) land leased to the State;
- (c) un-alienated iTaukei land, with the prior consent of the iTaukei owners and of the iTaukei Land Trust Board or the Land Use Unit in relation to designated land; and
- (d) any land reverted to the State.

(2) The notice in the Gazette must clearly define the boundaries of the reserves and provide specific provisions outlining the protection purpose and provide a comprehensive list of permitted and prohibited activities.

(3) The Minister may, upon recommendation of the Conservator and the Director of Lands, declare any nature reserve or forest reserve or part thereof to cease to be a nature reserve or a forest reserve.

(4) The Minister may, upon recommendation of the Conservator, cause alienated land to be acquired for a public purpose and compensation be given in accordance with the provisions of the State Acquisition of Lands Act 1940 and may thereafter, declare it to be a forest reserve or a nature reserve.

(5) Any nature reserve or forest reserve declared under the Forest Act 1992 must remain as such under this Act.

Management of nature reserves and forest reserves

20. (1) Forest reserves must be sustainably managed, protected and where necessary, restored to ensure their conservation and secure long-term benefits for both present and future generations.

(2) Nature reserves must be managed and protected solely to preserve their ecological integrity, encompassing their flora, fauna, fungi, soil, water and forest climate.

(3) Any buildings, fences or enclosures erected in or maintained on a forest reserve or in a nature reserve without the permission of the Conservator shall be deemed to be the property of the State and may be disposed of in such manner as the Conservator thinks fit.

National forest resource assessment

21. (1) At the commencement of this Act the Department of Forestry must undertake a National Forest Resource Assessment to collate data for the purposes of—

- (a) implementing sustainable forest management for the supply of timber on a sustainable basis; and

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- (b) forest resource monitoring at national level; and
 - (c) assessment of forest cover to inform specific management needs, such as the condition of water catchments and areas of forest requiring restoration.
- (2) Notwithstanding subsection (1), the National Forest Resource Assessment must be conducted at least every ten years.
- (3) The Conservator will use the results of the National Forest Resource Assessment to identify areas appropriate for timber harvesting based on forest conditions.
- (4) In those areas identified for timber harvesting under subsection (3), the Conservator must require licensees to complete a Forest Management Inventory in a form approved by the Department of Forestry before any application is made to conduct harvesting pursuant to section 25 of this Act.
- (5) All owners of forest plantation resources must undertake periodic Forest Management Inventories at least every three years.

PART 4—LICENSING AND CERTIFICATION OF FOREST PRACTICES PLANS

Prohibited activities

- 22.** (1) Except as authorised by a licence issued or a forest practices plan certified by the Conservator under this Act, no person shall—
- (a) in a forest reserve, or a nature reserve—
 - (i) conduct forest practices or introduce tree species or other plants, that are non-native to the site;
 - (ii) take other wood or non-wood forest products;
 - (iii) take peat, rock, sand, shells and soil other than minerals as defined in the Mining Act 1965;
 - (iv) cut, burn, uproot, damage or destroy vegetation;
 - (v) erect any buildings or livestock enclosures;
 - (vi) graze or allow any domestic animal to enter therein;
 - (vii) plant any crops or trees;
 - (viii) construct or obstruct any roads, paths, waterways or other infrastructure;
 - (ix) hunt or fish; or
 - (x) set any trap, snare or net or use or to be in possession of any gun, poison or explosive substance;
 - (b) on State land not being alienated land—
 - (i) conduct forest practices; or
 - (ii) take other wood or non-wood forest products
 - (c) on iTaukei land not being alienated land—
 - (i) conduct forest practices; or
 - (ii) take other wood or non-wood forest products
 - (d) on alienated land forest

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- (i) conduct forest practices; or
- (ii) take other wood or non-wood forest products

(2) In the case of a protected mangrove forest, a forest or nature reserve, the Conservator may authorise by written notice activities otherwise prohibited under subsection (1)(a)(ii-x) where such activities are consistent with the principles in section 23(2). An authorisation issued under subsection (2) must include such terms and conditions as the Conservator deems consistent with the principles in section 23(2).

(4) Any person who contravenes this section commits an offence of absolute liability and shall be liable upon conviction to a fine not less than \$25,000 or a term of imprisonment not exceeding 5 years, or both.

Forest practices plan

- 23.** (1) Any person intending to conduct forest practices on—
- (a) a forest or nature reserve;
 - (b) high conservation value forest;
 - (c) State land not being alienated land;
 - (d) iTaukei land not being alienated; or
 - (e) alienated land,

must make an application in writing to the Conservator in the approved form for the certification of a forest practices plan.

(2) An application made in accordance with subsection (1) must be prepared in accordance with the provisions of the Code of Forest Practices in force at that time and must be submitted in a form approved by the Conservator and accompanied by the consent of the relevant body prescribed in section 76 any such fees prescribed in the regulations and information required by the Conservator.

(3) Upon receipt of an application made in accordance with subsections (1) and (2), the Conservator may certify a forest practice plan in accordance with the provisions of the Code of Forest Practices.

(4) A person must not operate or conduct forest practices for any purpose whatsoever within the areas listed under subsection (1) unless with and in accordance with a forest practices plan certified under this section.

(5) Any person granted a certified forest practices plan under this section must only conduct activities approved within the plan, for the duration and on areas specified within the plan by the Conservator.

(6) A person must not acquire timber from land that does not have a certified forest practices plan in effect and is not being managed according to that plan.

(7) Any person who contravenes this section commits an offence of absolute liability and shall be liable upon conviction in the case of a—

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- (a) natural person, to a fine not exceeding \$50,000 for the first offence and not exceeding \$100,000 for the second and subsequent offences or to imprisonment for a term not exceeding 5 years, or to both; and
- (b) body corporate or unincorporate, to a fine of not less than \$80,000 for the first offence and not less than \$160,000 for the second and subsequent offences or to imprisonment for a term not exceeding 10 years, or to both.

Duration of certified forest practices plan

24. (1) The Conservator may certify a forest practices plan for a term of up to 5 years.

(2) The Conservator may refuse to certify a forest practices plan if it does not meet the standards prescribed by this act or the requirements of the Code of Forest Practices.

(3) The Conservator may revoke a certified forest practices plan if the holder subsequently fails to meet the standards prescribed by this Act, or those in the Code of Forest Practices or the iTaukei Land Forest Regulations.

(4) Where the person who applied for the certification of a forest practices plan is aggrieved by the refusal or revocation of the certification of the plan under subsections (2) or (3) the person may appeal the decision to the Tribunal.

(5) The Department of Forestry must maintain a register of all certified plans and must make the details of those plans available to the public, excluding any information that is of a personal, confidential or commercial-in-confidence nature.

Compliance reports for forest practices plans

25. (1) The responsible person for a certified forest practices plan (meaning the person who applied for the certification of the plan under section 25 or who is a person to whom the applicant's responsibilities under this Division have been assigned in accordance with a legal document lodged with the Conservator) is required to submit a compliance report to the Conservator in the approved form (meaning a form approved by the Conservator) within 30 days following the completion of activities under the plan or the expiration of the plan's authorized period, whichever is the sooner. This compliance report must be certified by a Forest Practices Officer prior to lodgement with the Conservator, and must include:

- (a) the extent of compliance with the plan;
- (b) if timber harvesting was authorized, the volume of timber extracted; and
- (c) any other information deemed necessary by the Conservator.

(2) Any person who contravenes this section commits an offence of absolute liability and shall be liable upon conviction to a fine not less than \$25,000, or to a term of imprisonment not exceeding 2 years, or both. This is an offence of absolute liability and may be designated as a fixed penalty offence.

Annual assessment of the implementation of forest practices plans

26. (1) The Conservator must, at least once in each financial year monitor and assess the implementation of a representative sample of forest practices plans.

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(2) The Conservator must, as soon as practicable after completing the assessment, prepare a report of the findings.

(3) The report prepared under subsection (2) in respect of a financial year is to be included in the annual report of the Ministry for the same financial year.

Forest management licence

27. (1) The Conservator may issue Forest Management Licences to individuals, organisations or companies that demonstrate a commitment to sustainable forest management and tree planting, to establish long-term tenures.

(2) An application for a Forest Management Licence must be made by submitting the approved form accompanied by any such fees or information specified by the Conservator.

(3) A Forest Management Licence's duration can be aligned with the duration of the corresponding land tenure.

(4) The Conservator may include in a Forest Management Licence any terms and conditions necessary for compliance with this Act and the national forest policy.

(5) A person must not operate or conduct activities for the purposes of maintaining a forest plantation except with a Forest Management Licence issued under this section.

(6) The requirement for a certified forest practices plan and compliance with it remains unaffected by the granting of a forest management licence.

(7) Any person who contravenes this section commits an offence of absolute liability and shall be liable upon conviction in the case of a—

(a) natural person, to a fine not less than \$25,000 for the first offence and not less than \$50,000 for the second and subsequent offences or to imprisonment for a term not exceeding 5 years, or to both; and

(b) body corporate or unincorporate, to a fine not less than \$80,000 for the first offence and not less than \$160,000 for the second and subsequent offences or to imprisonment for a term not exceeding 10 years, or to both.

Non-wood forest products licence

28. (1) The Conservator shall issue licences for the harvesting of non-wood forest products.

(2) An application for a licence under subsection (1) shall be accompanied by a fee as prescribed in the regulations.

(3) A licence issued in accordance with subsection (1) must be accompanied by such terms and conditions as the Conservator deems appropriate to ensure compliance with this Act and any codes of practice issued under this Act.

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(4) The Conservator may revoke a licence issued under this section if the licensee subsequently fails to meet terms and conditions of the licence the standards prescribed by this Act, or those in any applicable codes of practice.

Import and Export Licence

29. (1) The Conservator shall issue Import and Export Licences to monitor the quality, quantity, volume, value and other relevant information of all forest product movements for future management decisions.

(2) Any person intending to import or export forest products is required to submit an application in the approved form, along with any such fees and information specified by the Conservator.

(3) An Import and Export Licence may include terms and conditions the Conservator considers necessary to ensure compliance with this Act and the National Forest Policy.

(4) A person must not import or export forest products except with an Import and Export Licence issued under this section.

(5) Any person who contravenes this section commits an offence of absolute liability and shall be liable upon conviction in the case of a—

(a) natural person, to a fine not less than \$25,000 for the first offence and not less than \$50,000 for the second and subsequent offences or to imprisonment for a term not exceeding 5 years, or to both; and

(b) body corporate or unincorporate, to a fine not less than \$80,000 for the first offence and not less than \$160,000 for the second and subsequent offences or to imprisonment for a term not exceeding 10 years, or both.

Wood Processing Mills Licence

30. (1) The Conservator shall issue licences for the operation of any wood processing mills such as sawmills, chip mills, ply mills, veneer mills and any other type of mill which falls under this category, upon evidence that the applicant has secured a satisfactory wood supply.

(2) A licence issued in accordance with subsection (1) must be accompanied by such terms and conditions as the Conservator deems appropriate to ensure compliance with this Act and any codes of practice issued under this Act.

(3) The Conservator may revoke a licence issued under this section if the licensee subsequently fails to meet terms and conditions of the licence, the standards prescribed by this Act, or those in any applicable codes of practice.

(4) A person must not operate a wood processing mill or conduct activities for its operation without a Wood Processing Mills Licence issued under this section.

(5) Any person who contravenes this section commits an offence of absolute liability and shall be liable upon conviction in the case of a—

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- (a) natural person, to a fine not less than \$25,000 for the first offence and not less than \$50,000 for the second and subsequent offences or to imprisonment for a term not exceeding 5 years or both; and
- (b) body corporate or unincorporate, to a fine not less than \$80,000 for the first offence and not less than \$160,000 for the second and subsequent offences or to imprisonment for a term not exceeding 10 years, or both.

Log scaling

31. (1) All logs extracted from iTaukei and planted forests, including minor forest produce such as pine chips, sandalwood, firewood as well as logs intended for a commercial purpose, must be measured and weighed according to the log scaling regulations approved by the Conservator.

(2) The Conservator must appoint suitably trained persons as certified licenced scalers for the purposes of measuring and grading logs in accordance with the standards set by the Department of Forestry.

- (3) Any person who—
- (a) fraudulently reports on log measurements during scaling; or
 - (b) tampers with treated or specially engineered logs or timber where the intended standard of the timber is compromised and its quality misrepresented, commits an offence.

Transfer of licences or rights conveyed by licences

32. (1) A licence issued under this Act, must not be transferred except with the prior written approval of the—

- (a) landowner;
- (b) iTaukei Land Trust Board; or
- (c) Land Use Unit; and
- (d) Conservator.

(2) The employment or sub-contracting by any licensee of any other parties to carry out any logging or related operations must be subject to the prior written approval of the Conservator.

(3) Any activities carried out on any land during the time for which a licence is in force in relation to that land is deemed to be carried out under the authority of the licensee, unless the licensee proves the contrary.

(4) Any person who contravenes this section commits an offence of absolute liability and shall be held liable upon conviction to a fine not less than \$25,000 or to a term of imprisonment not exceeding 2 years, or both.

Power of the Conservator to suspend or revoke licences or plans

33. (1) The Conservator may, by written notice, wholly or partially suspend operations carried out under a licence or certified plan issued under this Act if a breach of its terms or conditions has occurred or is likely to occur.

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(2) The written notice must specify the reasons for the full or partial suspension of operations and require the licensee or plan holder to take all necessary measures to remedy or prevent the breach within a reasonable timeframe.

(3) Following such period of time set out under subsection (2), where the Conservator is not satisfied that the required necessary measures have been taken, the Conservator may revoke or suspend the licence or plan, provided that before any revocation or suspension, the Conservator allows the person an opportunity to be heard.

(4) A licensee or plan holder aggrieved by the decision of the Conservator may lodge an appeal to the Tribunal within 28 days from the date the licence or plan was revoked or suspended.

Enforcement of a licence or plan

34. (1) The licensee or plan holder is liable for any damage resulting from non-compliance with any terms or conditions of a licence issued under this Act.

(2) Where it is alleged that a licensee or plan holder has caused damage, whether through a breach of a licence or plan condition or otherwise, an independent third party acceptable to the landowners, the licensee and the Conservator must assess and value the damage. The aggrieved party may then apply to the court for relief.

(3) Any person who—

- (a) makes a misrepresentation, omission, or misstatement of fact in an application for a licence or plan that could reasonably be expected to affect the decision of the Conservator or relevant authority regarding the approval or conditions of the licence or plan; or;
- (b) without lawful authority alters, obliterates, removes or defaces any stamp, mark, sign, licence, plan or other document lawfully issued under the authority of this Act; or
- (c) counterfeits or issues any licence, plan or document purporting to be a licence, plan or document issued under the provisions of this Act, commits an offence.

(4) Any person who, after being issued a licence or plan under this Part, conducts forest practices beyond the area prescribed in that licence or plan commits an offence of absolute liability. Additionally, this person may be reported to the police for theft, who may choose to lay separate charges under section 294 of the Crimes Act 2009.

PART 5 – NOTICES TO REQUIRE COMPLIANCE WITH CERTIFIED FOREST PRACTICES PLAN AND THIS ACT

Initial Requests for Compliance by Forest Practices officers

35. (1) Where in the opinion of a forest practices officer the provisions of a certified forest practices plan are not being complied with on any land to which the plan relates or the provisions of this Act have not been complied with, he or she may,

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either orally or in writing, request the person apparently in charge of the forest practices carried out on that land to do any one or more of the following:

- (a) comply with the provisions of the certified forest practices plan or the provisions of this Act, as the case may be;
- (b) take action, in accordance with the Code of Forest Practices or as directed by the Conservator, so as to –
 - (i) repair or make good any damage to land, vegetation, or objects, that, in the reasonable opinion of the officer, has been caused by the forest practices specified in the request; or
 - (ii) rehabilitate or revegetate any land that, in the reasonable opinion of the officer, has been, or on which, in the reasonable opinion of the officer, the vegetation has been, damaged, degraded, or altered, by the forest practices specified in the request.

(2) The request, if it is in respect of the provisions of a certified forest practices plan, may be made –

- (a) at any time while the plan is in force; or
- (b) at any time in the 12-month period immediately after the day on which the plan ceases to be in force.

Compliance notices and directives for non-compliance

36. (1) If the forest practices officer who makes the request under section 36, another forest practices officer, or the Conservator later considers (whether from a further inspection of the relevant land or from other evidence) that the request under section 36 has not been complied with within a reasonable time, he or she may, by notice served on the person apparently in charge of the forest practices carried out on that land, direct that person to do such one or more of the following as may be appropriate in the circumstances:

- (a) cease the forest practices specified in the notice;
- (b) where there is a certified forest practices plan in relation to the forest practices on the land and in the reasonable opinion of the officer it is practicable and economically feasible to do so –
 - (i) repair or make good, in the manner and within the period specified in the notice, any damage to land, vegetation, or objects, that, in the reasonable opinion of the officer, has been caused by the forest practices specified in the notice; or
 - (ii) rehabilitate or revegetate, in the manner and within the period specified in the notice, any land that has been, in the reasonable opinion of the officer, or on which the vegetation has been, in the reasonable opinion of the officer, damaged, degraded, or altered, by the forest practices specified in the notice;
- (c) if there is no certified forest practices plan in relation to the forest practices on the land and, in the reasonable opinion of the officer it is practicable and economically feasible to do so –
 - (i) within the period specified in the notice, repair or make good, in accordance with the Code of Forest Practices or as directed by the Conservator any damage to land, vegetation, or objects, caused, in

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- the reasonable opinion of the officer, in contravention of this Act, by the forest practices specified in the notice; or
- (ii) within the period specified in the notice, rehabilitate or revegetate, in accordance with the Code of Forest Practices or as directed by the Conservator, any land that has been, in the reasonable opinion of the officer, or on which the vegetation has been, in the reasonable opinion of the officer, damaged, degraded, or altered, by the forest practices specified in the notice;
 - (d) carry out, within the period specified in the notice, such other work as may be specified in the notice;
 - (e) take, within the period specified in the notice, such actions as may be specified in the notice to ensure that the provisions of this Act are complied with.

(2) A notice under subsection (1) shall, subject to subsection (3), take effect on such date as is specified in the notice, being a date not earlier than 2 days after the service of the notice on the person apparently in charge of the forest practices.

(3) A person who is served with a notice under subsection (1) and who has not appealed to the Tribunal in respect of the notice pursuant to section 39 shall comply with the directions contained in the notice in the manner and within the period specified in the notice.

Consequences of failure to comply with notices and Conservator's remedial actions

37. (1) A person referred to in section 37(3) who fails to comply with the directions contained in a notice under section 37(1) in the manner and within the period specified in the notice is guilty of an offence of absolute liability and is liable on summary conviction to a fine not less than \$10,000, or a term of imprisonment not exceeding 2 years, or both.

(2) Where a person referred to in section 37(3) fails to comply with a notice under subsection (1) in the manner and within the period specified in the notice, the Conservator may request any person to do either or both of the following:

- (a) repair or make good the damage referred to in section 37(1) or rehabilitate or revegetate the land to which the notice relates;
- (b) carry out the works or take the action specified in the notice.

(3) A person who complies with a request under section 37(1) may, for that purpose, enter and remain on the land to which the notice referred to in that subsection relates.

(4) The costs and expenses incurred by a person in repairing or making good any damage, revegetating or rehabilitating any land, or carrying out any work or taking any action in compliance with a request made to that person by the Conservator under subsection (2) may be recovered in a court of competent jurisdiction as a debt due to that person, or the Conservator, from the person who failed to comply with the notice referred to in that subsection.

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Appeal to Tribunal by person aggrieved by notice served under section 37(1)

38. (1) A person who is aggrieved by a notice served on him or her under section 37(1) may, within 2 days after the date of service of that notice on him or her, appeal to the Tribunal.

(2) An appeal under subsection (1) shall be instituted by giving written notice to the registrar or in such other manner as may be prescribed.

(3) Where an appeal is brought under this section in respect of a notice, the notice shall not take effect until the determination or abandonment of the appeal or until such other date as the Tribunal may determine.

(4) At the hearing of an appeal under this section, the Tribunal may confirm, modify, or cancel the notice referred to in section 37.

(5) A person referred to in subsection (1) who fails to comply with a notice as modified or confirmed by the Tribunal is guilty of an offence of absolute liability and is liable on summary conviction to a fine not less than \$10,000 or a term of imprisonment not exceeding 2 years, or both.

PART 6 – CODE OF FOREST PRACTICES

Issue of Code of Forest Practices

39. (1) The Conservator shall, after consulting with the Forestry Advisory Council, prepare a draft Code on the conduct of forest practices.

(2) When the Conservator prepares the draft Code referred to in subsection (1), the Conservator shall cause a notice that the draft Code has been so prepared to be published in the Gazette and a national newspaper published in Fiji.

(3) A notice referred to in subsection (2) shall –

- (a) specify the places where the draft Code may be accessed or inspected;
- (b) invite submissions with respect to the draft Code from the public for consideration by the Conservator; and
- (c) specify that the submissions have to be received by the Conservator within the period of 60 days after the publication of the notice in the newspaper.

(4) Any person may, without payment of a fee, access the draft Code at the places specified in the notice referred to in subsection (2).

(5) The Conservator shall, after consulting with the Forestry Advisory Council and considering any public submissions received under this section with respect to the draft Code, recommend to the Minister that the Code be issued.

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(6) When the Minister issues the Code referred to in subsection (5), the Minister shall cause a notice that the Code has been so issued to be published in the Gazette and in the national newspaper published in Fiji.

Purpose of Code of Forest Practices

40. (1) The Code of Forest Practices shall prescribe the manner in which forest practices shall be conducted so as to provide reasonable protection to the environment, including the conservation of biodiversity and streams, landscape management and the control of soil erosion.

(2) The Code of Forest Practices may be issued in more than one part to address prescriptions for specific forest-related activities such as the protection and management of native forests, the establishment and management of plantations, the restoration of degraded forests and the operation of wood processing facilities.

Amendment of Code of Forest Practices

41. (1) The Conservator, after consulting with the Forest Advisory Council may recommend to the Minister that the Code of Forest Practices be amended or rescinded and a new Code of Forest Practices be issued in substitution for the rescinded Code.

(2) A person may, in writing, request the Conservator to amend the Code of Forest Practices.

(3) Where the Conservator seeks to amend the Code of Forest Practices, the Conservator shall cause a notice containing the prescribed particulars to be published in the national newspaper published in Fiji.

(4) For the purposes of subsection (3) prescribed particulars means –

- (a) notification of the Conservator's intention to recommend to the Minister the amendment of the Code of Forest Practices;
- (b) a brief description of the effect of the proposed amendments;
- (c) a statement to the effect that –
 - (i) the amendments to the Code of Forest Practice proposed by the Conservator are set forth in a document kept at the office of the Department of Forestry and may be inspected at that office or by on-line access by any person without payment of a fee; and
 - (ii) objections to the amendments referred to in subparagraph (i) may be lodged with the Conservator by the date specified in the notice, being a date not earlier than 60 days after the date on which the notice is published in the newspaper; and
- (d) such other particulars as the Conservator considers necessary.

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Objection to amendment of Code of Forest Practices

- 42.** (1) Any person who wishes to object to the amendment of the Code of Forest Practices which the Conservator seeks to make, may, at any time before the expiration of the period of 60 days after the notice referred to in section 42 is published in accordance with that section, lodge with the Minister an objection in writing to the amendments sought to be made by the Conservator.
- (2) An objection lodged under subsection (1) may not be entertained by the Minister unless –
- (a) it specifies the ground of the objection; and
 - (b) it has been lodged with the Minister before the expiration of the period referred to in that subsection.
- (3) The Minister shall, after considering any objections that are lodged with him/her in accordance with subsection (1), publish a notice in the Gazette specifying the amendment to the Code of Forest Practices.
- (4) A notice published in accordance with subsection (3) shall specify the date on which the amendment of the Code of Forest Practices shall take effect.

Assessment of the effectiveness of provisions in the Code of Forest Practices and forest practices plans

- 43.** (1) The Conservator must undertake research and evaluate the provisions in the Code of Forest Practice and forest practices plans and must at least once every five years prepare a report on the effectiveness of those provisions in meeting the objectives of this Act.
- (2) The Conservator must use the findings from subsection (1) to identify and implement improvements to the operation of this Act.

PART 7—FEES, ROYALTIES AND CUSTOMARY RIGHTS

Fees

- 44.** The Department of Forestry must review its fees at least every five years from the commencement of this Act and may, with the approval of the Minister, increase, decrease or waiver of such fees.

Royalties

- 45.** (1) Royalties relating to iTaukei land must be paid to—
- (a) the iTaukei Land Trust Board; or
 - (b) Ministry of Lands, where the iTaukei land has been designated under the Land Use Act 2010.
- (2) The rate of royalty shall be determined by the Department of Forestry and payment of royalties must be made in accordance with the class of logs scaled as prescribed in the regulations.

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(3) The Department of Forestry must review royalty rates every five years in accordance with publicly available assessment standards, following consultation with all relevant stakeholders and without prejudice to existing agreements, licences or contracts.

(4) Any royalty or fee due and payable under a licence for any produce shall constitute a first charge on that produce and may be seized and retained by the Conservator, who has a duty to preserve it in good condition until such amount is paid.

(5) If such amount is not paid within 7 days of such seizure, the Conservator may sell the said produce by public auction and proceeds of sale shall be directed toward the recovery of any expenses incurred in the seizure and sale.

(6) The surplus of a sale under subsection (5) shall, subject to notice having been given to the person entitled or his or her authorised representative, if not claimed within 2 months of the sale by the person entitled thereto, be forfeited to the State.

iTaukei customary rights

46. —(1) Subject to the terms and conditions of a licence by the Conservator under this Act or lease and the provisions of subsections (3), (4) and (5) nothing in this Act shall be deemed to prohibit or restrict on—

- (a) iTaukei reserve the exercise of any rights established by iTaukei custom to hunt, fish, or collect fruits, vegetables, wood and other plants and animals; or
- (b) alienated iTaukei land, with the consent of the lessee of such land, the cutting or removal in accordance with iTaukei custom of forest products which may be necessary for the purposes specified in paragraph (a).

(2) Fees or royalties shall not be payable by any iTaukei owner in respect of any forest products cut or removed in accordance with subsection (1).

(3) The Minister may, by notice in the Gazette prohibit the felling or removal of timber of a class, description or dimension specified in such notice in any area of iTaukei land and for such a period of time as specified in the notice.

(4) Nothing in this section shall be deemed to authorise any person to set fire to grass or undergrowth.

(5) iTaukei owners must not cut, fell or remove any plantation trees on plantation land upon which a licence has been issued by the Conservator in accordance with this Act.

(6) The Conservator must consider iTaukei customary land tenure when implementing requirements under international conventions and agreements.

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PART 8—SUSTAINABLE FOREST MANAGEMENT, PROTECTION OF FOREST SPECIES, FOREST HEALTH AND FOREST FIRES

Endorsement of forest management policies and certification

47. (1) The Conservator must endorse and issue forest management policies to ensure the protection, restoration and sustainable management of forests and the marketing of forest products in accordance with standards set by the Department of Forestry for resource owners and forest users.

(2) The certification of timber in accordance with national or international standards for forest management, chain of custody, and fair trade shall remain voluntary.

Endangered and protected forest species

48. A Committee will be appointed by, and will operate under the authority of, the Conservator to update and review the list of forest species within the Endangered and Protected Species Act 2002 and any associated legislation. Such review will be undertaken at a minimum of every five years, and the findings will be made publicly available.

Forest health

49. Forest owners, forest users, licensees or any person operating or in charge of a forest plantation must actively protect forests against outbreaks of pests, including invasive species, and other harmful impacts.

Forest fires

50. (1) No person shall light or cause to be lit a fire in any forest, including plantation forests and areas prepared for planting forest or trees, unless authorised by a Fire Licence under subsection (3).

(2) The Conservator may, where he or she finds that the hazard of forest fire warrants such action, declare any area a Fire Hazard Area by Notice in the Gazette for such time as the fire hazard persists.

(3) Upon application, the Conservator may issue a Fire Licence for any area where the lighting of fires is prohibited under subsection (1).

Appointment of fire rangers

51. (1) The Conservator may appoint fire rangers for specified forest reserves, nature reserves, or fire hazard areas.

(2) Subject to the Conservator's written instructions, a fire ranger may issue fire licences for their designated area.

(3) All forest officers, forest practices officers and police officers must be *ex-officio* fire rangers and may exercise the powers under subsection (2) with respect to any forest area in Fiji.

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Liability for damage caused by fire

52. (1) Any person who lights a fire in contravention of section 51(1) commits an offence of absolute liability and is liable upon conviction for any damage caused by the fire, regardless of any efforts made to prevent such damage.

(2) Where a fire escapes from an area owned or occupied by any person, that person is liable for any damage caused by that fire unless they prove that neither they nor anyone under their employment or supervision lit or ignited the fire and that they took all reasonable measures to prevent such damage.

(3) Any person in the vicinity of and is aware of a fire causing or likely to cause damage must assist to the best of their ability in extinguishing the fire.

(4) For the purpose of subsection (3) that person may enter upon any land where the fire may be or to which there is reason to believe the fire may spread and may do such things as are reasonably necessary to control or extinguish the fire.

(5) Any person who—

(a) unreasonably refuses to assist in extinguishing a fire in accordance with subsection (3); or

(b) lights a fire or attempts to light a fire without being licenced under section 51 to do so, commits an offence of absolute liability.

PART 9—FOREST FINANCE

Financial Instruments and Mechanisms

53. The Department of Forestry, subject to and in accordance with all written laws, may establish financial instruments and mechanisms with the purpose of financing the implementation of this Act and its objectives. These instruments and mechanisms may include, but are not limited to:

(a) A forest finance strategy to support and coordinate access to funding, while ensuring sustained and continuous financial support for forest protection, conservation, restoration, sustainable forest management, and the fostering of a forest-based bioeconomy.

(b) National or international forest funds to finance projects related to forest conservation, restoration, sustainable management, research, and forestry related bioeconomy. Such funds may be supported, among others, by taxes, levies, fees, payments for ecosystem services, proceeds from carbon or biodiversity credit incentives, official development assistance, international climate and biodiversity finance, or philanthropic contributions, earmarked for investment in forest projects aligned with this Act. A forest fund may deploy a broad range of financial instruments, including equity, loans, mezzanine financing, bonds, and others. It must establish access criteria and procedures to ensure that local communities, indigenous peoples and vulnerable forest-dependent groups can benefit.

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(c) Public-private partnerships for the protection, conservation, restoration, sustainable management, and research of forests and forest-based bioeconomy.

(d) Payments for ecosystem services to incentivize and facilitate financial flows for forest-based activities and the ecosystem services they provide.

(e) Emissions reduction projects, programmes or activities that involve forests.

Emissions reduction projects, programmes or activities that involve forests

54. (1) Any person seeking to register or conduct an emissions reduction project, programme or activity that involves forests in Fiji to generate Fiji Mitigation Outcome Units or other emissions reduction units issued under an approved international emissions reduction standards or for the purpose of Article 6 of the Paris Agreement, or seeking to use, sell or transfer such units, must comply with the provisions of Part 10 of the Climate Change Act 2021 and related regulations.

(2) The Conservator has the power to provide technical advice, consents and determinations as required or requested under the Climate Change Act 2021 and related regulations.

(3) In discharging the powers described in relation to subsection (2) above, the Conservator must take into consideration—

- (a) guidelines, standards and procedures provided for under international agreements, conventions or treaties of which Fiji is a party; and
- (b) any Fiji REDD+ policy and blue carbon policy.

(4) The Minister has the power to provide advice and approvals and to discharge the responsibilities as set out in the Climate Change Act 2021 and related regulations.

PART 10—ADMINISTRATION AND ENFORCEMENT

Appointment of forestry officers

55. (1) On the Conservator's recommendation, the Permanent Secretary shall appoint persons within the Department of Forestry as Forestry Officers to ensure the effective administration and enforcement of this Act.

(2) The Forestry officers must possess knowledge, skills and experience appropriate to the positions to which they are appointed.

Power of inspection

56. (1) Any forestry officer or person appointed by the Conservator, or police officer, may without a warrant enter any land on which the officer has reasonable grounds to believe that activities are being, or have been, conducted, and any timber yard or sawmill, timber merchants, wood processing sites and inspect such activities and any forest products found in such places, to ensure that the provisions of this Act are being or were complied with.

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(2) Any biosecurity officer or forestry officer, may enter sites harbouring potentially harmful organisms and materials, such as plant nurseries and plant breeding and distribution sites.

(3) Any officer, police officer or any person authorised in this behalf by the Conservator may—

- (a) where any person is engaged in an activity for which a licence or other authorisation is required under this Act, require the production of such licence or other authorisation by such person; and
- (b) stop and inspect any log carrier or other vehicle which is carrying any forest products or anything for which a transport document is required under this Act or which he reasonably suspects has been obtained in contravention of this Act.

(4) Any person who—

- (a) refuses to produce or make available for inspection by any forestry officer a licence or other document required to be kept under this Act;
- (b) obstructs a forestry officer from carrying out their inspection duties;
- (c) forges or fraudulently uses upon any forest product, any registered hammer mark or any mark used by any forest officer to indicate that such forest product may be removed or is the property of the State or of some other person; or
- (d) without proper authorisation wears any identification, uniform or part of a uniform or any badge or other mark issued by the Department of Forestry, commits an offence of absolute liability.

Power of arrest

57. (1) Upon notification by a forestry officer, any police officer may, without a warrant, arrest any person whom they reasonably suspect has committed an offence against this Act.

(2) Any police officer making an arrest under this section must, without unnecessary delay, take or send the person arrested to the police officer in charge of the nearest police station.

Power of seizure

58. (1) Any forestry officer or police officer, may without a warrant seize and hand-over to the Conservator any—

- (a) forest products or any peat, rock, sand, shells and soil other than minerals as defined in the Mining Act 1965, in respect of which there is reason to believe that an offence has been committed against this Act, together with any objects or livestock used in the commission of such offence; and
- (b) any forest products encountered on such inspections which do not comply in quality with prescribed standards; or
- (c) livestock found trespassing or found without any person in charge of them in any forest reserve or nature reserve.

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(2) Any biosecurity officer or forestry officer may confiscate, in any site, plants and trees deemed harmful to forests.

Non-liability of forestry officers

59. A forestry officer shall not be held responsible or held liable for any loss or damage which may occur in respect of anything detained for the purposes of this Act unless he or she causes the same maliciously or fraudulently or by gross negligence.

Seized property and abandoned timber

60. (1) Any items seized under section 59 and any timber which appears to have been abandoned, must be taken possession of by the Conservator.

(2) The Conservator must make such enquiry as appears reasonable in the circumstances and either release the items referred to under subsection (1) to any claimant whom he or she has established to be the owner of such items or establish that the property of such items shall vest in the State free from all encumbrances.

(3) If such product seized is perishable, the costs for storage to prevent deterioration of the said product must be borne by the owner of the licence.

(4) If the licence owner refuses or otherwise fails to bear the storage costs of the seized products, the Conservator must authorise in writing the immediate sale or disposal in any other way of any of the objects referred to in subsection (1) which are perishable.

(5) If any of the items referred to in subsection (1) is claimed by more than one person, the Conservator may refer the claimants to the relevant competent court.

(6) Any person aggrieved by any decision of the Conservator under this section may, within 28 days after such decision, appeal to the Tribunal in writing.

(7) No person shall be entitled to recover possession of any object seized under the provisions of this section until the amount of any expenses incurred in collecting, moving, storing and disposing of the said objects has been paid to the Conservator.

(8) Any of the functions under this section, if not exercised directly by the Conservator, may with the written approval of the Conservator, be exercised by the deputy conservator, principal forestry officer, senior forestry officer, forestry officer, or any other persons approved by the Conservator.

Forest Practices Officers

61. (1) Subject to this section, the Conservator may by warrant signed by the Conservator authorise the following persons to be a forest practices officer for the purposes of this Act

- (a) a person appointed as an officer under section 57(1); and
- (b) any person employed by a body corporate which has an involvement in forest practices in Fiji, or any person whom it regards as being suitably qualified.

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(2) The Conservator may, by notice in writing, revoke a warrant authorizing a person to be a forest practices officer for the purpose of this Act and, upon service of the notice on that person, the authorization is revoked.

(3) The Conservator may at any time revoke the authorization of a person to be a forest practices officer for any reason it considers sufficient and, without limiting the generality of this, the Conservator may revoke any such authorization on the grounds that the person concerned –

- (a) has been negligent or not diligent in performing the duties and exercising the powers of a forest practices officer; or
- (b) has contravened a code of conduct; or
- (c) has contravened a direction given under this Act to the forest practices officer by the Conservator; or
- (d) has been convicted of an offence against this Act; or
- (e) has been convicted, in Fiji or elsewhere, of an offence involving dishonesty; or
- (f) is physically or mentally incapable of adequately performing the duties or exercising the powers of a forest practices officer.

(4) A forest practices officer shall not be held responsible or held liable for any loss or damage which may occur as a result of his or her actions under this Act unless he or she causes the same maliciously or fraudulently or by gross negligence

(5) A forest practices officer has powers of inspection as for forest officers in section 57.

Code of Conduct for Forest Practices Officers

62. (1) The Conservator shall prepare a code of conduct for forest practices officers.

(2) The Conservator in preparing a code of conduct for forest practices officers, must consult with the Forestry Advisory Council and forest practices officers.

(3) As soon as practicable after the Conservator issues a code of conduct for forest practices officers, the Conservator must cause notice of the issue to be published in the Gazette or in another manner that the Conservator considers appropriate.

Contents of code of conduct

63. (1) A code of conduct for forest practices officers is to specify the manner in which forest practices officers are to perform their functions, and exercise their powers, under this Act or any other Act.

(2) A code of conduct for forest practices officers is to specify the procedures for the investigation and determination of whether a forest practices officer has contravened the code of conduct.

(3) The procedures referred to in subsection (2) –

- (a) are to afford procedural fairness in the determination of whether a forest practices officer has contravened the code of conduct; and

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(b) may vary according to the circumstances of the alleged contravention of the code of conduct for forest practices officers.

(4) A code of conduct for forest practices officers is to be consistent with this Act.

Fixed Penalty Notices

64. 1) Where the Conservator, or a forestry officer authorised by the Conservator, has reasonable grounds to believe that a person has committed a fixed penalty offence as prescribed in section 70, the Conservator or authorised forestry officer may issue that person with a fixed penalty notice.

(2) A fixed penalty notice must:

- (a) be in the approved form;
- (b) specify the alleged fixed penalty offence;
- (c) specify the fixed penalty amount for that offence;
- (d) specify the date by which the fixed penalty must be paid, which must not be less than 28 days from the date of issue of the notice;

(e) state that if the fixed penalty is paid within the specified period, no further proceedings will be taken in respect of the alleged offence;

(f) state that if the fixed penalty notice is not paid within the specified period, the person may be prosecuted for the alleged offence or for the offence of failing to pay the fixed penalty.

(3) Payment of the fixed penalty within the period specified in the fixed penalty notice shall discharge the liability of the person for the alleged fixed penalty offence.

64. (1) A person who is served with a fixed penalty notice under section 63 and fails to pay the fixed penalty within the time frame specified in the notice commits an offence.

(2) A person convicted of an offence under subsection (1) is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months, or to both.

(3) For the avoidance of doubt, payment of a fine under subsection (2) does not discharge the liability of the person for the original fixed penalty offence, and the Conservator may proceed with the prosecution for the original offence.

Commencement of proceedings

65. 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 Conservator,
- whichever is the later.

Offences and penalties

66. Any person found guilty of an offence against this Act for which a penalty is not specified shall be liable upon conviction to a fine not less than \$5,000 or to a term of imprisonment not exceeding 2 years, or to both.

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Liability of body corporate and directors

67. Where a body corporate commits an offence under this Act, the director, employee or agent of the body corporate who directed, authorised, assented to, acquiesced in or participated in the commissioning of the offence also commits the offence, and shall be liable upon conviction to a fine not less than \$5,000 and not exceeding \$50,000, or a term of imprisonment not exceeding 4 years, or both.

Evidence

68. (1) In the prosecution for an offence under this Act it is sufficient proof of the offence against a person to establish that the offence was committed by an employee or agent of that person, whether or not the employee or agent is identified or prosecuted for the offence.

(2) A suitably qualified person authorised by the Permanent Secretary may issue a certificate stating that he or she has analysed or examined the matter, substance or product and stating the result of the analysis or examination is evidence admissible in Court for the offence described in the certificate and of the correctness of the result of the analysis or examination.

(3) No certificate of a person authorised under subsection (2) is to be received in evidence unless the party intending to produce it has given to the party against whom it is intended by a Court to be produced reasonable notice of the intention together with a copy of the certificate.

(4) Where any person is convicted by a Court of an offence against this Act whereby any forest product, forest ecosystem, or watershed has been damaged or injured or taken, the court may in addition to any other penalty, order such person to pay to the owner of such forest product, forest ecosystem, soil, or watershed, compensation not exceeding the commercial value thereof and obligate the person, in the event of damage to or destruction of the forest ecosystem, soil or watershed, to restore it.

(5) The commercial value of such product, forest ecosystem, soil, or watershed must be determined by independent third parties.

Certificate Evidence

69. (1) In any proceedings for an offence under this Act, a certificate signed by the Conservator, or a forestry officer authorised by the Conservator for this purpose, stating any of the following matters is admissible as prima facie evidence of the facts stated in the certificate, without proof of the signature of official character of the person appearing to have signed the certificate:

(a) That on a specified date or during a specified period -

(i) A particular area of land was declared a forest reserve, nature reserve, high conservation value forest, State land not being alienated land, iTaukei land not being alienated land, or alienated land forest;

(ii) A beacon, boundary mark, fence, notice or notice board was erected by the Department of Forestry for the purpose of forest classification at a specified location;

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- (iii) A person was or was not the holder of a valid licence (including a forest practices plan, forest management licence, import and export licence, or wood processing mills licence) or other authorisation under this Act for a specified activity or area;
 - (iv) A compliance report for a certified forest practices plan was or was not submitted in the approved form within a specified period;
 - (v) A specified licence or rights conveyed by a licence were or were not transferred with prior written approval;
 - (vi) Specified employment or sub-contracting for logging or related operations was or was not approved by the Conservator;
 - (vii) A specified stamp, mark, sign, licence, plan or other document was lawfully issued under this Act;
 - (viii) A particular forest product was or was not from land with a certified forest practices plan in effect and managed according to that plan;
 - (ix) A specified area was the prescribed area in a licence or plan;
 - (x) A notice served under section 37(1) was issued, served on a specified person, and/or was not complied with in the manner and within the period specified;
 - (xi) A notice modified or confirmed by the Tribunal was or was not complied with;
 - (xii) A person refused to produce or make available for inspection a licence or other document required under this Act;
 - (xiii) A person was or was not authorised to wear specific identification, uniform, badge or mark issued by the Department of Forestry;
 - (xiv) A person was or was not licensed under section 51(3) to light a fire.
- (b) That a particular substance is timber of a protected species, or a non-wood forest product, or peat, rock, sand, shells, or soil as defined in this Act.
- (c) The results of any log measurement or scaling conducted by a forestry officer.
- (d) The authenticity and contents of any photograph, video recording, or other visual or audio-visual recording taken by a forestry officer in the course of their duties under this Act, and that such recording depicts a specified event, location, or item relevant to the commission of an offence under this Act.
- (2) Nothing in this section shall be construed as preventing the Conservator or any other person from giving oral evidence or testimony in any proceedings concerning any matter referred to in subsection (1).

Offences of Absolute Liability and Fixed Penalty Offences

- 70.** The following offences under this Act are offences of absolute liability:
- (a) Damaging, altering, shifting, removing or interfering with any beacon, boundary mark, fence, notice, or notice board erected by the Department of Forestry for the purpose of forest classification as per section 18
 - (b) Contravention of section 22(1) (prohibited activities in a forest reserve, nature reserve, on State land not being alienated land, on iTaukei land not being alienated land, or on alienated land forest, except as authorised by a licence or certified forest plan), specifically in relation to:

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- (i) Conducting forest practices;
 - (ii) Introducing non-native species;
 - (iii) Taking wood or non-wood forest products;
 - (iv) Taking peat, rock, sand, shells, and soil (excluding minerals);
 - (v) Cutting, burning, uprooting, damaging or destroying vegetation;
 - (vi) Erecting buildings or livestock enclosures;
 - (vii) Grazing domestic animals;
 - (viii) Planting crops or trees;
 - (ix) Constructing or obstructing roads, paths, waterways or other infrastructure;
 - (x) Hunting, fishing or setting traps/snares/nets or possessing guns, poison or explosive substances.
- (c) Operating or conducting forest practices in specified areas (forest/nature reserve, high conservation value forest, State land not alienated, iTaukei land not alienated, or alienated land) without and not in accordance with a forest practices plan certified under section 23.
- (d) Acquiring timber from land that does not have a certified forest practices plan in effect and is not being managed according to that plan.
- (e) Failing to submit a compliance report for a certified forest practices plan in the approved form within 30 days following the completion of the activities or the expiration of the plan.
- (f) Operating or conducting activities for the purposes of maintaining a forest plantation except with a Forest Management Licence issued under section 28.
- (g) Importing or exporting forest products except with an Import or Export Licence issued under section 29.
- (h) Operating a wood processing mill or conducting activities for its operation without a Wood Processing Mills Licence issued under section 30.
- (i) Transferring a licence or rights conveyed by a licence issued under the Act, without the required written approval as required by section 32.
- (j) The employment or sub-contracting by any licensee of other parties for logging or related operations without the Conservator's written approval as per section 33.
- (k) Conducting forest practices beyond the area prescribed in that licence or plan as per section 35.
- (l) Failing to comply with the directions contained in a notice served under section 37(1) (compliance notices and directives for non-compliance) in the manner and within the period specified in the notice.
- (m) Failing to comply with the directions contained in a notice served under section 37(1) (compliance notices and directives for non-compliance) in the manner and within the period specified in the notice.
- (n) Failing to comply with a notice as modified or confirmed by the Tribunal as per section 39(1).
- (o) Refusing to produce or make available for inspection by any forestry officer a licence or other document required under this Act.
- (p) Without proper authorisation, wearing any identification, uniform or part of a uniform or any badge or other mark issued by the Department of Forestry.

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- (q) Lighting a fire in contravention of section 51(1) (relating to prohibition on lighting fires without a licence).
- (r) Unreasonably refusing to assist in extinguishing a fire in accordance with section 51(3) (duty to assist if aware of a fire causing or likely to cause damage).
- (s) Lighting a fire or attempting to light a fire without being licensed under section 51 to do so.

(2) The following offences are designated as fixed penalty offences for the purposes of a fixed penalty notice issued under section 65:

- (a) Damaging, altering, shifting, removing, or interfering with any beacon, boundary mark, fence, notice, or notice board erected by the Department of Forestry for the purpose of forest classification as per section 18
- (b) Contravention of section 22(1) in relation to: (i) taking wood or non-wood forest products where the quantity taken is less than a threshold determined by the Conservator; (ii) minor obstruction of roads, paths, or waterways.
- (c) Failing to submit a compliance report for a certified forest practices plan in the approved form within 30 days following the completion of activities or the expiration of the plan.
- (d) Transferring a licence or rights conveyed by a licence issued under the Act, without the required prior written approval as per section 32.
- (e) The employment or sub-contracting by any licensee of other parties for logging or related operations without the Conservator's prior written approval as per section 33.
- (f) Failing to comply with the directions contained in a notice served under section 37(1) (Compliance notices and directives for non-compliance) in the manner and within the period specified in the notice, where the non-compliance is of a minor nature as prescribed by regulations.
- (g) Refusing to produce or make available for inspection by any forestry officer a licence or other document required under this Act.
- (h) Without proper authorisation, wearing any identification, uniform or part of a uniform or any badge or other mark issued by the Department of Forestry.
- (i) Unreasonably refusing to assist in extinguishing a fire in accordance with section 51(3) (duty to assist if aware of a fire causing or likely to cause damage).

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Forfeiture of property used in commission of forest offence

71. Where any person is convicted of an offence against this Act, the court may, in addition to any other penalty, order that all forest products and other things in respect of which such offence has been committed, and all tools, machinery, equipment, boats, trucks, helicopters, conveyances and livestock used in the commission of such offence be forfeited to the State.

Onus of proof for livestock

72. Any livestock found on any land shall be deemed to be there under the authority of the owner thereof, unless the owner proves the contrary.

PART 11—ALTERNATIVE TO PROSECUTION

73. Conservator is satisfied that an offence under this Act has been committed, the Conservator may, on payment of a prescribed fine by the alleged offender –

- (a) cause any proceedings in respect of the alleged offence to be waived or discontinued; and
- (b) if the alleged offence involved the unlawful harvesting of timber or the unlawful clearance of forest, allow the alleged offender or another person specified by the Conservator to retain the whole or any part of that timber.

(2) For the purposes of this section, the Conservator is to establish and maintain a fund.

(3) Prescribed fines are to be paid into the fund and are taken to be at the disposal of the Conservator.

(4) The Conservator may provide all or part of a prescribed fine to a person to recompense the person for any costs incurred in repairing or making good any damage done, or in rehabilitating or revegetating any land that has been, or on which the vegetation has been, damaged, degraded, or altered, by reason of the action, or failure to take an action, constituting all or part of the offence to which the fine relates.

(5) In this section – prescribed fine means a fine of –

- (a) such amount as the Conservator determines is equal, or approximately equal, to twice the amount required to make good the damage done or any loss incurred by the commission of the relevant offence; or
- (b) if the relevant offence is of a particularly serious kind or it will not be possible or practicable to make good the damage done or any loss incurred by the commission of the relevant offence, such amount as the Conservator determines will constitute an appropriate sanction and deterrent in the circumstances.

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Forest Practices Tribunal

- 74.** (1) For the purposes of this Act there shall be established a Tribunal to be known as the Forest Practices Tribunal.
- (2) The Tribunal shall be appointed by the Minister and shall consist of –
- (a) such number of Fijian lawyers as the Minister considers necessary who have practised as legal practitioners for not less than 5 years;
 - (b) such number of persons as the Minister considers necessary who possess a sound and practical knowledge of land management and forestry,
 - (c) such number of persons as the Minister considers necessary who possess tertiary qualifications in the sciences appropriate forest management and conservation and have had substantial practical experience in those sciences.
- (3) The Minister may appoint one of the persons referred to in subsection (2) (a) to be chief chairperson of the Tribunal and another of the persons referred to in subsection (2) (a) to be deputy chief chairperson of the Tribunal.
- (4) The deputy chief chairperson shall act as chief chairperson during any period when the chief chairperson is absent or unable, whether on account of illness or otherwise, to perform the duties of his or her office, or when the office of chief chairperson is vacant.
- (5) The deputy chief chairperson shall, while acting as chief chairperson, have all the powers and functions of the chief chairperson.
- (6) The jurisdiction, powers, and duties conferred or imposed on the Tribunal by this Act shall be exercised or performed by divisions of the Tribunal.
- (7) A division shall consist of 3 persons nominated by the chief chairperson from the panel of persons referred to in subsection (2), of whom –
- (a) one shall be a person referred to in subsection (2) (a);
 - (b) one shall be a person referred to in subsection (2) (b); and
 - (c) one shall be a person referred to in subsection (2) (c).
- (8) The chief chairperson may nominate himself or herself or the deputy chief chairperson as the member of a division required to be nominated from the persons referred to in subsection (2) (a).
- (9) Where –
- (a) the chief chairperson nominates himself or herself as a member of a division, he or she is to act as chairperson of the division; or
 - (b) the chief chairperson does not nominate himself or herself as a member of a division, the member of the division nominated from the persons referred to in subsection (2) (a) shall act as chairperson of the division.

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(10) The chief chairperson and deputy chief chairperson are entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of them.

(11) The members of a division are entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of them.

Registry of the Forest Practices Tribunal

75. (1) There is to be established and maintained in the office of the Ministry of Forestry a Registry of the Forest Practices Tribunal at which all the records of the Tribunal are to be kept.

(2) For the purposes of the Registry:

- (a) a State Service officer or State Service employee employed in that Ministry for the purposes of that Act to be the registrar of the Registry of the Forest Practices Tribunal; and
- (b) such other administrative support is to be made available as may be necessary for the establishment and maintenance of the Registry of the Forest Practices Tribunal.

Procedure on receipt of an appeal

76. (1) On receipt of an appeal under this Act, the registrar shall notify the chief chairperson who shall nominate members of the panel referred to in section 71 to constitute a division for the purposes of hearing the appeal and shall advise the registrar of the members so nominated.

(2) The registrar shall advise the parties to the appeal of the members of the panel referred to in section 71 who are nominated by the chief chairperson to constitute a division for the purposes of hearing the appeal.

(3) The Department of Forestry shall be deemed to be a party to all proceedings before the Tribunal.

Procedures of the Tribunal

77. (1) The Tribunal may be constituted at any time and at any place.

(2) The registrar shall notify all parties to the appeal of the time and place at which the appeal is to be heard.

(3) For the purposes of hearing and determining an appeal before it, the Tribunal may take evidence on oath or affirmation and, for those purposes, the chief chairperson of the Tribunal may administer an oath or affirmation.

(4) The Tribunal may join any person as a party to proceedings before the Tribunal.

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(5) A party to proceedings before the Tribunal is, at those proceedings, entitled to tender evidence to the Tribunal and to examine any other person who tenders evidence in those proceedings.

(6) A party to proceedings before the Tribunal is generally not entitled to be represented by a legal practitioner, unless the Tribunal, having considered the complexity of the matter and the potential impact on the party, grants leave for legal representation.

(7) In the hearing of an appeal before the Tribunal –

- (a) the procedure of the Tribunal is, subject to this Part, within the discretion of the Tribunal;
- (b) the Tribunal shall observe the rules of natural justice;
- (c) the proceedings shall be conducted with as little formality and technicality, and with as much expedition, as a proper consideration of the matter before the Tribunal permits;
- (d) the Tribunal may admit any relevant evidence notwithstanding that the evidence would not be admissible in a court of law;
- (e) the Tribunal may inform itself on any matter as it thinks fit.

(8) The Tribunal may adjourn its proceedings from time to time or from place to place and may determine an appeal notwithstanding that the appellant has failed to appear before the Tribunal at the time and place fixed for the hearing.

(9) A decision of a majority of the members of the Tribunal shall be a decision of the Tribunal.

PART 12—MISCELLANEOUS

Regulations

78. (1) The Minister may make regulations to give effect to the provisions of this Act and such regulations may—

- (a) provide for the appointment of licensing officers;
- (b) regulate the issuance of licences and plans, the terms and conditions of licences and plans, and may restrict or prohibit their issuance for specific classes or species of forest products, in specified or designated areas, or, on land within forest reserves concerning peat, rock, sand, shells and soil (excluding minerals as defined in the Mining Act, Cap 146);
- (c) control any activity involving forest land, forest resources and forest products;
- (d) prescribe requirements for forest practices including codes of practice;
- (e) prescribe circumstances under which a certified forest practices plan is not required
- (f) provide for the establishment of procedures and standards for forest resource assessment and forest management inventories, including data collection, monitoring, reporting and verification mechanisms;
- (g) prescribe—

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- (i) *royalties due on products cut or collected under licence on State land or on iTaukei land in forest reserves;*
 - (ii) *the fees and any other charges due to the State on products cut or collected under a licence on any land; and*
 - (iii) *Fees payable for making application for the certification of a forest practices plan*
- (h) provide for the remission or exemption from payment, in whole or in part, of any fees, royalties or other charges due to the State;
- (i) prohibit any dealings in specified kinds of forest products;
- (j) prescribe the route by which forest products may be exported from or moved within Fiji;
- (k) provide for the issue of passes for the removal of forest products and other products whose taking is prohibited under this Act except if authorised by a licence issued under this Act, for the establishment of checking stations and for the stoppage, reporting, examination and marking of such produce;
- (l) regulate the use of marks for timber and of marking hammers;
- (m) prescribe forms to be used under regulations made under this Act;
- (n) control the entry of persons into any forest reserve or nature reserve;
- (o) regulate the floating of timber or other forest products and the storing of timber or forest products on riverbanks;
- (p) require holders of licences and plans to maintain and render returns and accounts;
- (q) regulate the seasoning, treatment, grading and storage of forest products;
- (r) regulate the establishment, management and harvesting of forest plantations, including but not limited to mahogany and pine plantations;
- (s) regulate the harvesting and trade of sandalwood;
- (t) provide for the registration and licensing of wood processing mills; set technical, environmental and operational standards for wood processing, including sawmilling, manufacturing, and value-added production;
- (u) provide for the establishment and administration of financial instruments and mechanisms to the implementation of this Act and its objectives;
 - (v) regulate the creation, registration and enforcement of conservation leases on forest land, including permissible activities and obligations of lessees; and
 - (w) provide for any other matters related to ensuring the effective enforcement of this Act.

(2) The Minister may, by notice in the Gazette specify the scientific equivalents of any English, iTaukei or other vernacular names used to denote any tree or forest product.

General provisions on prior consent

79. A licence under this Act must only be issued and a plan must only be certified with the prior consent of the—

- (a) iTaukei Land Trust Board, for a licence relating to iTaukei land which is part of a forest reserve, if no provisions for royalties are made or royalties are envisaged at a rate lower than the prescribed rate;

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- (b) Director of Lands, for a licence relating to State land other than State land in a forest reserve;
- (c) iTaukei Land Trust Board, for a licence relating to iTaukei land other than iTaukei land in a forest reserve;
- (d) iTaukei Land Trust Board and the lessee of such land, for a licence to conduct forest practices on alienated iTaukei land;
- (e) Director of Lands and the lessee of such land, for a licence to conduct forest practice on alienated State land; or
- (f) owner, for a licence relating to alienated land not being State land nor iTaukei land.

Transitional arrangements

80. (1) Any other entitlements, issuance of licences, and rights acquired under the Forest Act 1992 shall remain valid under this Act until their expiry, suspension or revocation in accordance with section 34.

(2) All subsidiary laws lawfully made under the provisions of the Forest Act 1992 prior to the commencement of this Act shall continue to have effect but may be amended or revoked by regulations made under this Act.

Repeal

81. The Forest Act 1992 is repealed.

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Office of the Attorney-General

*Suvavou House
Suva*

[month] 2025

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EXPLANATORY NOTE

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

1.0 BACKGROUND

- 1.1 The Forestry Bill 2025 (**‘Bill’**) is a result of the review of the Forest Act 1992 (**‘Act’**) which was endorsed by Government and was conducted with the technical assistance provided by the Asian Development Bank and its team of experts, as well as the continuous effort of the Ministry of Forestry.
- 1.2 This Bill provides for the management, development and sustainable use of Fiji’s forest resources. This Bill will also enable the full implementation of the Fiji Forest Policy of 2007 (**‘Policy’**), as well as the National Development Plan, 2025-2029 and Vision 2050.
- 1.3 This Bill embraces the sustainable management and utilisation of forest resources whilst ensuring the conservation of natural and cultural values for the present and future generations.
- 1.4 However, the Act does not sufficiently cover or provide for measures which are based on sustainable forest management. The Act does not refer to all aspects of sustainable forest management, and parts of it are inconsistent with recent developments in policy and administration of the forest sector.
- 1.5 Therefore, this Bill endeavours to further harmonise the current Policy with the legal regime of forestry and also other more recent relevant land use policies and environmental legislation such as the Environment Management Act 2005.
- 1.6 This Bill is a more encompassing legislation for the forestry sector and endeavours to resolve the deficiencies within the Act relating to forest management, licensing and harvesting.

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2.0 SECTIONS

2.1 The Bill consists of 12 Parts which are as follows—

- (i) Part 1 of the Bill includes the citation, short title, interpretation provision and the objectives of the Bill.
- (ii) Part 2 of the Bill contains provisions pertaining to governance, the roles of the Conservator of Forests, the functions of the Department of Forestry, the establishment of the Forestry Advisory Council and provision for the right of stakeholders to form associations.
- (iii) Part 3 of the Bill aligns all programs and activities of the forest sector to the recent developments reflected in the Policy. This Part also mandates the Department of Forestry to classify forests based on their forest functions and to undertake forest inventories and assessment and provisions relating to the declaration and management of reserves.
- (iv) Part 4 of the Bill confers new provisions which are consistent with the Policy and provides for other licences such as import and export licences, forest management licences, forest practices plans, wood processing mills licences and the provisions for the enforcement of these licences and plans. In order to maintain and update production statistics from all forest areas, this Part allows the Department of Forestry to measure all logs extracted from native and plantation forests for commercial purposes at the processing plant, by people trained and licensed by the Department.
- (v) Part 5 of the Bill provides for the issue of notices, where required, to ensure compliance with certified forest practices plans and other provisions of the Act.
- (vi) Part 6 of the Bill provides for the making of codes of practice for the planning and conduct of forest practices so as to provide reasonable protection to the environment, including the conservation of biodiversity and streams, landscape management and the control of soil erosion. This part also provides for the assessment and reporting on the effectiveness of the codes in providing such protection during the conduct of forest practices.
- (vii) Part 7 of the Bill provides for the payment of fees and royalties stemming from forest felling and timber extraction. This part also provides for the customary rights of resources owners and members of the community to use forest resources for daily sustenance.

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- (viii) Part 8 of the Bill provides for the endorsement of forest management policies and certification and for the establishment of a committee under the Conservator to review the list of forest species under the Endangered and Protected Species Act 2002. This part also provides for the protections of forests from pests and fires, including provisions relating to the appointment of fire rangers.
- (ix) Part 9 deals with financial instruments and mechanisms and aligns processes for emissions reduction projects, programmes or activities that involve forests with the scheme established under the Climate Change Act 2021 and related regulations.
- (x) Part 10 of the Bill contains provisions relating to the administration and enforcement of the Act. It allows for the appointment of officers within the Department of Forestry to act as law enforcement officers and also provides for the appointment of Forest Practices Officers within both the public and private sectors to ensure that all forestry activities are planned and monitored by responsible and accountable officers. This part also contains provisions for actions by law enforcement officers, including powers of inspection, arrest and seizure of property.
- (xi) Part 11 of the Bill provides a range of other enforcement measures as alternatives to prosecution, including corrective action notices, fixed penalty notices and prescribed fines. This part of the Bill also provides for the establishment of a Tribunal to hear and make determinations with respect to appeals against decisions made with respect to licences, plans and corrective action notices.
- (xii) Part 12 of the Bill provides for the miscellaneous provisions and for transitional provision which allow for the smooth transition from the Act to the new Bill.

3.0 MINISTERIAL RESPONSIBILITY

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

[ATTORNEY GENERAL]