

# **Rotuma Act [Cap 122]**

## **LAWS OF FIJI**

Ed.1978]

### **CHAPTER 122**

#### **ROTUMA ACT**

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*Ordinances Nos. 9 of 1927, 2 of 1945, 9 of 1955, 4 of 1958, 19 of 1962, 5 of 1964,  
22 of 1964, 37 of 1966, 17 of 1968, 34 of 1970*

## **AN ACT TO MAKE SPECIAL PROVISION FOR THE GOVERNMENT OF ROTUMA AND ROTUMANS**

[1st September, 1927.]

## **PART I-PRELIMINARY**

### *Short title*

1. This Act may be cited as the Rotuma Act.

### *Interpretation*

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

"Chairman" means the Chairman of the Council;

"Council" means the Council of Rotuma established by this Act;

*(Inserted by 4 of 1958, s. 2.)*

"District Chief" means a chief of a Rotuman district elected in accordance with Rotuman custom;

*(Inserted by 4 of 1958, s. 2.)*

"District Officer" means the District Officer for Rotuma;

"District Officer's Court" means the District Officer's Court Rotuma;

"former Council" means the Council established by the Rotuma (Council) Regulations, 1939;

*(Inserted by 4 of 1958, s. 2.)*

"Fund" means the Rotuman Development Fund established under the provisions of this Act;  
*(Inserted by 4 of 1958, s. 2.)*

"former Fund" means the Fund created by the former Council out of moneys received by the former Council from a cess on copra;  
*(Inserted by 4 of 1958, s. 2.)*

"Rotuma" means the island of Rotuma and its dependencies, that is to say all islands, rocks, reefs and fisheries lying between the twelfth degree and the fifteenth degree of south latitude and between the one hundred and seventy-fifth degree and the one hundred and eightieth degree of east longitude from the meridian of Greenwich;

"Rotuman" means any person of Rotuman or part-Rotuman descent. If any dispute arises as to whether a person is or is not Rotuman the Council shall decide, but any person aggrieved by the Council's decision may appeal to the Minister whose decision shall be final;  
*(Inserted by 4 of 1958, s. 2.)*

"Rotuman community" means the indigenous inhabitants of Rotuma and also any Fijian resident on Rotuma.  
*(Inserted by 37 of 1966, s. 31.)*

### *Application to Rotuma of Acts of Fiji*

**3.**-(1) Except in so far as Rotuma has been expressly excluded from the provisions thereof, all Acts are hereby declared to apply to Rotuma.  
*(Substituted by 37 of 1966, s. 31.)*

(2) In applying any provisions of any Act to Rotuma such Acts shall be construed as containing any variations in respect of Rotuma made necessary by this Act or any other Act specially applicable to Rotuma.

(3) All Acts when applied to Rotuma shall be construed to apply only so far as the circumstances of the island and its inhabitants permit and all Acts shall be construed in relation to Rotuma with such verbal alteration not affecting the substance as may be necessary to render the same applicable to the matter before the Court, and the District Officer and any other officer having or exercising functions of a like kind or analogous to the functions of any officer referred to in any such Act shall be deemed to be within the enactments thereof relating to such last mentioned officer.

### *District Officer*

**4.** It shall be lawful for the Minister from time to time to appoint any fit and proper person to be District Officer for Rotuma.  
*(Amended by 2 of 1945, s. 75.)*

## PART II-DISTRICT OFFICER'S COURT

### *District Officer's Court*

5. There shall be established for Rotuma a Court of Justice to be styled the District Officer's Court which shall consist of and be holden by the District Officer.

### *Jurisdiction of District Officer*

6. The District Officer shall, ex officio, be a magistrate within Rotuma and shall, save as hereinafter set forth, have the same jurisdiction in all civil and criminal suits and matters as a second class magistrate.

*(Substituted by 2 of 1945, s. 75.)*

### *Seal of Court*

7. The District Officer's Court shall have a seal bearing an impression of the Royal Arms with the inscription "District Officer's Court Rotuma" and all process issuing out of the said Court shall be stamped or sealed therewith.

### *Officers of Court*

8. There shall be attached to and belong to the district Officer's Court such officers as to the Minister shall from time to time appear to be necessary for the administration of justice and the due execution of the powers and authorities with which the District Officer is hereby vested, and such officers shall have all the powers vested in a police officer by the laws of Fiji.

### *Accounts of fees, etc., to be kept*

9. An account of all fees, forfeitures and money penalties levied or paid under the provisions of this Act shall be kept by the District Officer and the District Officer shall at such times as the Minister may direct forward a transcript of such account to the Auditor-General and shall pay into the Treasury at such times and in such manner as the Minister may direct all moneys received by him on account of such fees, forfeitures and penalties.

### *Note of evidence to be taken in English*

10. A note of all evidence given in the District Officer's Court shall be taken by the District Officer in English.

*Procedure in indictable cases. Charges to be in writing in prescribed form.*

11.-(1) In all cases where a charge or complaint is made before the District Officer that any person has committed or is suspected to have committed any indictable offence within Rotuma or that any person guilty or suspected to be guilty of having committed such offence outside Rotuma is in Rotuma, such charge or complaint shall be made in writing as nearly as possible in the form laid down in the Second Schedule to the Criminal Procedure Code and the District Officer shall thereafter cause the accused person to be summoned or arrested in the manner provided by the said Code.

*(Amended by 2 of 1945; s. 75.)*

*(Cap. 21.)*

*District Officer to try. Evidence to be taken in writing and read to witnesses.*

(2) Thereafter the District Officer shall, except where the charge is in respect of an offence punishable by death, proceed to try the charge and at the trial shall, in his own handwriting, take down the evidence given upon oath or affirmation of all witnesses, and the evidence of each witness shall be read over and, if necessary, translated to the witness in every case and thereafter signed by the witness and interpreter as being a full and correct statement of the evidence attested by the District Officer as having been taken before him on the date of the trial.

*(Amended by 19 of 1962, s. 2.)*

*Trial to be as before judge up to conclusion of evidence and addresses*

(3) In all other respects the District Officer shall conduct the trial, and the procedure shall be as nearly as possible the same, as if the trial were for an offence being tried on information before a judge sitting alone in the Supreme Court until the conclusion of the evidence and of the addresses, if any, of the accused and of the prosecutor.

*District Officer to dispatch record to Chief Justice*

(4) Thereupon the District Officer shall adjourn the case and as soon as may be dispatch his notes of evidence and all documents and exhibits in the case which may reasonably be dispatched to the Chief Justice together with his recommendation and any comment upon the evidence he may wish to make, and during such adjournment, pending the decision of the case as hereinafter provided, may order that the accused be kept in confinement or admitted to bail and shall inform the Chief Justice accordingly.

*Chief Justice may remit for further evidence*

(5) The Chief Justice shall then consider the case thus presented to him and if he considers it necessary may instruct the District Officer to take any further evidence and such evidence shall then be taken in the same manner as evidence in the case which was previously taken and transmitted to the Chief Justice.

*Chief Justice to record verdict and sentence on record except in capital offences*

(6) If no further evidence is required, or on receipt of the further evidence (if any), the Chief Justice, having considered the case, shall state in writing at the foot of the record of the proceedings the verdict, and, if the verdict is "guilty", the sentence which to him shall seem just and is permitted by law and, shall return the record to the District Officer together with a warrant of commitment.

*(Amended by 19 of 1962, s. 2.)*

*District Officer to reassemble and read verdict in open Court*

(7) On receipt of the record completed as above the District Officer shall reassemble the Court. The verdict and sentence recorded by the Chief Justice shall be read by the District Officer to the accused in open court and if necessary translated to the accused and the fact certified by the District Officer upon the record.

*Warrant to be executed*

(8) All steps shall thereupon be taken to execute the warrant.

(9) Where the charge is in respect of an offence punishable by death the District Officer shall hold a preliminary inquiry in accordance with the provisions of Part VII of the Criminal Procedure Code and all the provisions of the Criminal Procedure Code as to committal for trial and trial by the Supreme Court including all matters connected therewith and incidental thereto shall apply:

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Provided that if the Supreme Court for reasons to be recorded in the minutes of the Court considers it to be in the interests of justice that the trial before the Supreme Court should be by a judge without assessors it may direct that the trial should be by a judge alone.

(10) If the Court directs that the trial shall be by a judge alone, the provisions of Part IX of the Criminal Procedure Code shall apply with such modifications as may be necessary or convenient to adapt them to a trial by a judge alone.

## **PART III-THE COUNCIL OF ROTUMA**

### *Constitution of Council of Rotuma*

**12.**-(1) There is hereby established a Council called the Council of Rotuma which shall consist of-

- (a) the chiefs of the seven Rotuma districts;
- (b) one representative from each of the Rotuma districts elected in accordance with the provisions of this Act;
- (c) as advisory members without any voting powers, the District Officer, the most senior Medical Officer, and the most senior Agricultural Officer resident on Rotuma:

Provided however they shall cease to be such members upon a resolution duly passed by the Council in that behalf.

- (2) The Chairman of the Council shall be elected by secret ballot by those members of the Council who possess voting power.
- (3) All matters decided by the Council other than the election of its Chairman shall be decided by a majority of those present in open vote.
- (4) The Chairman shall at all times have, in addition to his deliberative vote, a casting vote in the case of the deliberative votes being cast equally.
- (5) The Council may make rules not inconsistent with this Act governing its own procedure.
- (6) The Chairman and any nine other members of the Council shall constitute a quorum.  
*(Inserted by 34 of 1970, s. 3.)*

### *Meetings of Council*

**13.**-(1) Meetings of the Council shall be held not less frequently than once in each quarter upon a date and at a place to be fixed by the Chairman.

- (2) 'The Chairman shall direct the order of proceedings at all meetings of the Council in such manner as he may deem best fitting for the due despatch of business.
- (3) Members of the public shall not be admitted to meetings of the Council except at the express invitation of the Council.
- (4) The Chairman may call a meeting at any time and shall call a meeting within seven days of being requested to do so by at least eight members of the Council.  
*(Section Inserted by 4 of 1958, s. 4, and amended by 34 of 1970, s. 4.)*

### *Minutes to be kept*

**\*14.** The minutes of every meeting of the Council shall be kept by the Chairman who shall forward a copy of such minutes to the Minister.

*\* Inserted by 4 of 1958, s. 4.*

### *Duties of Council*

**\*15.** It shall be the duty of the Council-

(a) to consider all such questions relating to the good government and wellbeing of the Rotuman community in the island as may be directed by the Minister or may seem to them to require their attention;

(b) to administer the Rotuman Development Fund established by this Act, and to carry out all such functions as may be required by law or necessary or desirable in connexion with such Fund.

*\* Inserted by 4 of 1958, s. 4.*

### *Regulations*

**\*16.**-(1) The Council may make Rotuma Regulations to be obeyed by all members of the Rotuman community in Rotuma relating to the peace, order and good government of the Rotuman community and, without prejudice to the generality of the foregoing, relating to-

(a) the keeping clean of Rotuma and the promotion of public health;

(b) the social and economic betterment of the Rotuman community;

(c) the performance of communal work by members of the Rotuman community and other communal activities of the Rotuman community;

(d) the control of livestock on Rotuma;

(e) the prevention or removal of public

(f) the care of children and aged persons;

(g) the conservation of food supplies on Rotuma.

(2) Such regulations may impose penalties for the breach thereof not exceeding imprisonment for a term of four months or a fine of one hundred dollars or both such imprisonment and fine.

*\* Inserted by 4 of 1958, s. 4.*

### *Aiding or abetting an offence*

**\*17.** Any person who aids or abets any member of the Rotuman community in committing a breach of any regulation made by the Councillor on who procures or attempts to procure or counsels or advises any act involving the breach or neglect of any regulation shall be liable on conviction to a fine not exceeding forty dollars or to imprisonment for any term not exceeding



four months.

*\* Inserted by 4 of 1958, s. 4.*

### *Election of District Chiefs*

**\*18.**-(1) District Chiefs shall continue to be elected in accordance with Rotuman custom as heretofore.

(2) The Minister may in his discretion by notice in the Gazette remove from office any District Chief.

(3) Where the Minister has removed from office the chief of any Rotuman district, a new election in accordance with Rotuman custom of a chief for such district shall be held as soon as possible.

(4) A person removed from office by the Minister shall not be eligible for re-election as District Chief without the consent of the Minister.

*\* Inserted by 4 of 1958, s. 4.*

### *Election of representative*

**19.**-(1) A representative of the Council, in this section referred to as a representative, in respect of each of the seven districts shall be elected by secret ballot.

(2) Any Rotuman of the age of twenty-one or over shall be entitled to vote in the election of the representative for the district in which such Rotuman habitually resides.

(3) A representative shall automatically retire after three years in office but may offer himself for re-election.

(4) The elections of representatives shall take place in each district during October of every third year.

*(Amended by 34 of 1970 s. 6.)*

(5) Any person entitled to vote at an election of a representative of a district may, if nominated by four persons similarly qualified in respect of such district, be a candidate at an election of a representative for such district. Nomination as a candidate must be made not more than 14 days and not less than 4 days prior to the date fixed for the election.

(6) In the event of the death or resignation of a representative of a district during his term of office, a by-election shall be held. A representative elected at a by-election shall hold office for the period remaining of the term of office of the representative whom he replaces:

Provided that where a representative dies or resigns within three months of the date on which he was due to retire, the District Officer may, with the permission of the Minister, direct that no by-election shall be held in which case the representative shall be deemed to have died or resigned on the date on which he would normally have retired.

(7) Subject to the provisions of subsection (4), the District Officer shall fix the date when an election or by-election shall take place and, subject to the provisions of this Act, the procedure at any election or by-election shall be in accordance with his directions, which may include any direction necessary to give effect to the provisions of this section.

(8) For the purpose of avoiding doubt it is hereby declared that the provisions of subsections (1), (2), (3) and (5) shall also apply to by-elections.  
(Section substituted by 17 of 1968 s. 2.)

#### *Approval and commencement of regulations*

**\*20.**-(1) Subject to the provisions of subsection (2), regulations made by the Council shall not have effect unless and until they have been approved by resolution of Parliament.

(2) If the Chairman is of opinion that, having regard to the time that must elapse before a meeting of Parliament will be held, it is in the public interest so to do, he may grant provisional approval to any such regulations.

(3) Upon any regulation receiving approval or provisional approval as aforesaid, it shall be published in the Gazette and, unless it be otherwise provided therein, shall take effect and come into operation on the date of such publication.

(4) Every regulation provisionally approved by the Chairman shall be laid on the table at the next subsequent meeting of Parliament, and if Parliament at such meeting resolves that the regulation shall be annulled, the regulation shall forthwith be void; but without prejudice to the validity of anything previously done thereunder.

*\* Inserted by 4 of 1958, s. 4.*

### **PART IV-ROTUMAN DEVELOPMENT FUND**

#### *Establishment of Rotuman Development Fund*

**\*21.**-(1) There is hereby established a Fund known as the Rotuman Development Fund.

(2) The Fund shall consist of-

(a) all moneys, investments, securities or other property comprising the former Fund at the commencement of this Act;

(b) any cess paid to the Council in accordance with the provisions of this Act;

(c) any income accruing to the Fund from placing on deposit, investing or otherwise dealing with the moneys in the Fund in any manner authorised by this Act.

*\*Inserted by 4 of 1958, s.4*

#### *Rights and obligations of former Council in former Fund to vest in the Council*

**\*22.** All rights liabilities and obligations in respect of the former Fund which immediately before the commencement of this Act were rights, liabilities and obligations of the former

Council shall by virtue of this Act become rights, liabilities and obligations of the Council.

*\*Inserted by 4 of 1958, s.4*

#### *Validation of former Fund*

**\*23.** It is hereby declared that all moneys heretofore received by the former Council in respect of any cess levied on copra were properly and validly so received as if the said cess had been validly and lawfully imposed, and the former Council and every person from time to time being a member thereof are acquitted, discharged and indemnified against all and every person from all legal proceedings of any kind whatsoever in connection with the imposition or collection of such cess.

*\*Inserted by 4 of 1958, s.4*

#### *Objects of Fund*

**24.** The object of the Fund shall be the promotion of the development, welfare and advancement of Rotumans. Subject to the payment of expenses properly incurred by the Council in the management and control of the Fund or in connexion with the imposition and recovery of any cess, the whole of the Fund shall be expended for purposes directed exclusively towards the aforesaid objects, and may be expended outside as well as inside Rotuma.

*(Substituted by 22 of 1964, s. 2.)*

#### *Administration of Fund*

**25.** Subject to such other directions as may be made by the Minister, the Fund shall be managed and controlled by the Council and the following provisions shall have effect with respect to such management and control:-

*(a)* estimates of the revenue and expenditure of the Fund for the following year shall be submitted annually before the first day of October in the preceding year, to the Minister responsible for finance for approval, and no expenditure out of moneys in the Fund shall take place except in accordance with such approved estimates unless the special authority of such Minister shall first have been obtained;

*(b)* the Council shall cause to be kept proper books of account relating to its management and control of the Fund and shall cause details of all moneys received and expended including administration expenses to be entered correctly in such books which books shall be kept separately from any other books of account kept by the Council;

*(c)* any moneys in the Fund may be invested in such manner as the Council may, with the prior approval of the Minister responsible for finance, from time to time, either generally or in any particular case, determine;

*(d)* such part of the moneys of the Fund as is not for the time being invested in pursuance of the provisions of paragraph *(c)* shall be paid into a bank or banks to be selected by the Council and every cheque or order for payment on such bank or banks shall be signed by such person or persons as shall be prescribed by the Minister by rules made under the provisions of this Act:

Provided that the Clerk of the Council shall be entitled to retain in cash a sum not exceeding such sum as may from time to time be prescribed, for the purpose of making payments from

the Fund;

*(Amended by 34 of 1970 s. 8.)*

(e) the Council shall not later than the 30th day of June in each year submit to the Minister a report on the operations of the Fund during the year ending on the 31st day of December immediately preceding.

*(Substituted by 22 of 1964, s. 3.)*

#### *Imposition of cess*

\*26.-(1) The Council shall have power to impose a cess to be paid by all Rotuman producers upon primary produce produced by them in Rotuma: Provided that no primary produce which is the property of a religious missionary organization shall be subject to the imposition of cess.

(2) The rate of such cess shall not exceed ten per cent of the purchase price payable to the producer for the sale of such produce. The Council shall have power to vary the rate of such cess from time to time, but any cess imposed under the provisions of this section shall remain in force until so varied.

(3) Any cess imposed under this section shall be paid to the Council or its agent by the producer of the produce to which it relates, without demand and within fourteen days of the sale of such produce. If not so paid the cess shall be recoverable in any manner provided by law for the recovery of civil debts.

(4) For the purposes of this section primary produce means-

(a) copra;

(b) cocoa beans;

(c) such other agricultural or marine produce as may be specified by the Minister by notice in the Gazette.

#### *The Fund to be exempt from income tax*

\*27. The former Fund and the Fund shall be exempt from income tax, and the former Fund shall be deemed always to have been so exempt.

*Inserted by 4 of 1958, s.4*

### **PART V-ROTUMA AGRICULTURAL AND INDUSTRIAL LOAN FUND**

#### *Rotuma Agricultural and Industrial Loan Fund*

28.-(1) The Council may establish a fund which shall be called the Rotuma Agricultural and Industrial Loan Fund which shall be operated, controlled, invested and expended in accordance with the provisions of this Act.

(2) The total amount of moneys paid by the Council into the Rotuma Agricultural and Industrial Loan Fund from the Fund shall not exceed twenty thousand dollars.

*(Amended by 34 of 1970 s. 9.)*

(3) The Council may loan moneys from the Rotuma Agricultural and Industrial Loan Fund to any Rotuman for such agricultural and industrial purposes, and upon and subject to such conditions, as the Council, with the prior agreement of the Minister responsible for finance, may from time to time determine.

(4) The manner of applying for such loans and all questions of procedure shall be decided by the Council.

(5) All loans made by the Council from the Rotuma Agricultural and Industrial Loan Fund shall be recoverable at the suit of the Council.

*(Section inserted by 22 of 1964, s. 4.)*

## **PART VI - GENERAL**

### *Audit of accounts*

**29.** The accounts of the Council including those of the Fund and of the Rotuma Agricultural and Industrial Loan Fund shall be audited from time to time as the Minister responsible for finance may direct by an auditor to be appointed or approved by the Minister responsible for finance and the audited accounts together with the auditor's report thereon shall be submitted to the Minister responsible for finance within three months of any such audit.

*(Inserted by 22 of 1964, s. 4.)*

### *Saving*

**30.** The Rotuma Native Regulations lawfully made under the provisions of this Act prior to the establishment of the Council shall continue to have effect but may be amended or revoked by regulations made under the provisions of this Act.

*(Substituted by 37 of 1966, s. 31.)*

(4) For the purposes of this section primary produce means-

(a) copra,

(b) cocoa beans,

(c) such other agricultural or marine produce as may be specified by the Minister by notice in the Gazette.

*Controlled by Office of the Prime Minister*