

MAGISTRATES' COURTS (AMENDMENT) ACT 1998**ARRANGEMENT OF SECTIONS****Part 1—PRELIMINARY****SECTION**

1. Short title, etc
2. Commencement

Part 2—AMENDMENTS OF PRINCIPAL ACT

3. Appointment of magistrates
4. Insertion of new section
 - 7A. Termination of appointment, etc
5. Substitution of new section 11
 11. Justices of the Peace
6. Powers and functions of Justices of the Peace
7. Substitution of new section 51
 51. Language of the court

FIJI

ACT NO. 12 OF 1998



I assent.

[L.S.]

K. K. T. MARA
President

[20 April 1998]

AN ACT**TO AMEND THE MAGISTRATES' COURTS ACT**

ENACTED by the Parliament of Fiji—

Part 1—PRELIMINARY*Short title, etc*

1.—(1) This Act may be cited as the Magistrates' Courts (Amendment) Act 1998.

(2) The Magistrates' Courts Act (Cap. 14) is in this Act referred to as the Principal Act.

Commencement

2.—(1) This Act comes into force on a date appointed by the Minister and published in the *Gazette*.

(2) The Minister may appoint different dates for the coming into force of different provisions.

Part 2—AMENDMENTS OF PRINCIPAL ACT*Appointment of magistrates*

3.—(1) Section 7 of the Principal Act is amended by omitting from subsections (1) and (2) and from the proviso to subsection (3) the words "and Legal Services" and substituting "Service".

(2) Section 7 of the Principal Act is amended by omitting from subsection (1) the words “paragraphs (a), (b) and (c) of section 4 of the Legal Practitioners Act” and substituting “the Legal Practitioners Act 1997”.

Insertion of new section

4. After section 7 of the Principal Act the following new section is inserted—

“Termination of appointment, etc

7A.—(1) The Judicial Service Commission may remove a magistrate from office and may take disciplinary action against a magistrate.

(2) The reference in subsection (1) to removal of a magistrate from office includes a reference to—

- (a) requiring or permitting the magistrate to retire from office;
- (b) terminating the contract on which the magistrate is employed; or
- (c) not renewing the contract on which the magistrate is employed.”.

Substitution of new section 11

5. Section 11 of the Principal Act is repealed and the following substituted—

Justices of the Peace

11.—(1) The Minister may, following consultation with the Chief Justice—

- (a) appoint a person as a Justice of the Peace;
- (b) review or revoke the appointment of a Justice of the Peace; or
- (c) renew the appointment.

(2) A Justice of the Peace must notify the Minister, at least 2 months before the expiry of his or her term, if he or she wishes to be reappointed.

(3) A person appointed as a Justice of the Peace will be appointed for a term of 3 years unless the person is appointed for a specific purpose in which case the appointment is subject to the terms and conditions set out in the instrument of appointment.

(4) Before a person is appointed under subsection (1)(a) or reappointed under subsection (1)(c), the Minister has to be satisfied that the person—

- (a) is of good character and ability;
- (b) is respected and has good standing in society;
- (c) has good knowledge of local customs, cultures and traditions;

(d) will maintain independence and impartiality; and

(e) has the ability to keep social distance from his or her immediate community.

(5) A person who is a member of the Parliament is a Justice of the Peace for as long as he or she remains a member.

(6) The Minister may revoke an appointment if the Minister is satisfied that the person—

(i) has been adjudged or declared by a competent medical authority or medical practitioner to be of unsound mind;

(ii) is or was under a sentence of death imposed on him or her by a court in the Fiji Islands or in another country;

(iii) has been sentenced to imprisonment for a term exceeding 12 months;

(iv) does an act or engages in conduct contrary to his or her allegiance, obedience or adherence to the State; or

(v) is an undischarged bankrupt either in the Fiji Islands or in another country.

(7) An appointment of a Justice of the Peace made before the commencement of this section continues in force, and is made under this section for a period of 3 years from the commencement of this section.”

Powers and functions of Justices of the Peace

6. Section 12 of the Principal Act is amended by deleting “justice of the peace” and substituting “Justice of the Peace”.

Substitution of new section 51

7. Section 51 of the Principal Act is repealed and the following substituted—

“Language of the court

51.—(1) The language of magistrates’ courts is English but evidence may be given in Fijian or Hindustani or, with the approval of the court, in any other language.

“(2) If a witness proposes to give evidence in Fijian or Hindustani, or any other language as approved, the magistrate may, as necessary, direct that communication by and with the witness at the hearing should proceed through an interpreter.

“(3) The record of proceedings in the court must be kept in English.”

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

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