



STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

Report on the Review of the Sugar Industry (Amendment) Bill 2024 (Bill No. 23 of 2024)



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CHAIRPERSON'S FOREWORD



The Standing Committee on Justice, Law and Human Rights was referred the Sugar Industry Amendment Bill 2024 to scrutinise and to return a report of its findings to Parliament.

The Sugar Industry Amendment Bill 2024 aims to revise the Sugar Industry Amendment Act 2015 to reinstate the election of Council Members in the Sugar industry.

The Sugar Industry Act 1984 (**‘Act’**) primarily governs the administration of the sugar industry and establishes the Sugar Cane Growers Council (**‘Council’**). The Council’s role is to safeguard and promote the interests of the sugar cane industry, representing all registered cane growers in Fiji. Prior to 2015, the council members were elected according to a process defined in the Act. However, the Sugar Industry (Amendment) Act 2015 modified this process, allowing the Minister to appoint Council members instead. Consequently, the Sugar Industry (Amendment) Bill 2024 aims to revise this provision which will modify the Council’s composition and furthermore detail the electoral process for selection and qualification of its members.

As part of the review, the Committee conducted public consultation in targeted areas to gather opinions and feedback from the sugar cane farming community. The Committee received support and commendation on the introduction of the Bill, from majority of the public that had participated in the public consultation. However, like most activities that impact the lives of the people of a country, there will also be other suggestions that are based on the premise of making improvements.

Consideration was also given to the impact of the Bill on Fiji’s efforts in meeting its targets of the sustainable development goals (SDG). It was encouraging to note that the Bill aims to re-introduced Council elections for the purpose of improving the Sugar Industry whereby it also provides a pivotal platform for women participation in the election process. Additionally, the objective of the Bill is as such that it applies equally to all persons and thus realising the principles of gender equality and empowerment of women in the agriculture sector.

The Committee acknowledges the concerns raised by the submittees and has deliberated at length on concerns raised. The Committee is confident that all issues raised have been addressed and that the Bill is sufficient as it is with some minor amendments.

I would like to thank the Honourable Members of the Justice, Law and Human Rights Committee for their deliberations and input; Hon. Iliesa Vanawalu (Deputy Chairperson), Hon. Lenora Qereqeretabua, Hon. Jone Usamate, and Hon. Faiyaz Koya. I would also like to acknowledge the alternate members of the Committee Hon. Joseph Nand, Hon.

Alipate Tuicolo and Hon. Ratu Isikeli Tuiwailevu who also contributed immensely to the deliberation of the Bill.

I, on behalf of the Committee, commend the **Sugar Industry Amendment Bill (Bill No. 23 of 2024)** to the Parliament and seek support of all the members of this August house for the Bill.



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HON. RATU RAKUITA VAKALALABURE
CHAIRPERSON

COMMITTEE COMPOSITION

The Standing Committee on Justice, Law and Human Rights (‘**Committee**’) is made up of Members of both the Government and Opposition. The Members of the Standing Committee are as follows:



Hon. Ratu Rakuita Vakalalabure
(Chairperson)



Hon. Iliesa Vanawalu
(Deputy Chairperson)



Hon. Lenora Qereqeretabua
(Member)



Hon. Jone Usamate
(Member)



Hon. Faiyaz Koya
(Member)

COMMITTEE SECRETARIAT

Supporting the Committee in its work is a group of dedicated Parliament Officers who make-up the Committee Secretariat and are appointed and delegated by the Secretary-General to Parliament pursuant to Standing Order 15 (3)(i). The Secretariat team is made of the following Parliament officers:

- Mr. Jackson Cakacaka – Senior Committee Clerk
- Ms. Alumita Cabealawa – Deputy Committee Clerk
- Mrs. Katie Batikawai – Assistant Committee Officer

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1.0 INTRODUCTION

1.1 Background

The Standing Committee on Justice, Law and Human Rights, referred to as the ("**Committee**"), was assigned the Sugar Industry Amendment Bill 2024 for review on October, 2024. The Bill was referred to the Committee in accordance with SO 51(2), which tasked the Committee with the examination of the Bill and the responsibility to report on its findings in a subsequent Parliament Sitting.

1.2 Procedure and Program

The Committee has conducted a thorough review of the Sugar Industry Amendment Bill 2024 (Bill No. 23 of 2024). This report outlines the findings, observations, and recommendations of the Committee regarding the Bill, which aims to re-establish the election for Sugar Cane Growers Council and Board members.

The Committee read through the Bill and deliberated on the Clauses in the Bill. The Committee called for submissions from the public and other interested stakeholders by placing advertisements through the Parliament social media platform and mainstream media.

The Committee was mindful of the provisions in Standing Order 111(1)(a) and ensured that its meetings were open to the public and the media, except during such deliberations and discussions to develop and finalise the Committee's observations and this Report.

1.3 Committee Remit

The Standing Committee on Justice, Law, and Human Rights, in accordance with Standing Order 109 of Parliament's Standing Orders, is tasked with several duties. As outlined in Standing Order 110, these include scrutinizing each Bill referred to it by Parliament and review any subordinate legislation presented in Parliament that falls under its purview.

2.0 THE SUGAR INDUSTRY AMENDMENT BILL (BILL NO. 23 of 2024)

2.1 Introduction

Sugar Industry Act 1984

The Sugar Industry Act 1984 (**‘Act’**) generally provides for the administration of the sugar industry. The Act also establishes the Sugar Cane Growers’ Council (**‘Council’**).

The function of the Council is to ensure the protection and development of the sugar cane industry. The Council was established with specific functions to represent the interests of all registered cane growers in Fiji. The members of the Council were elected through an election process stipulated in the Act.

Sugar Industry Amendment Act 2015

In 2015, through the Sugar Industry (Amendment) Act 2015, the Sugar Industry Amendment Act 1984 was amended whereby the members of the Council were to be appointed by the Minister.

Sugar Industry Amendment Bill 2024

The Sugar Industry (Amendment) Bill 2024 (**‘Bill’**) seeks to amend the Act to allow for the election of members to the Council. The Bill will also amend the composition of the Council and outline the electoral process for election to the Council.

2.2 Objective of the Sugar Industry Act 1984

The objective of the Sugar Industry Act 1984 are to; -

- (a) establish the tribunal, the council and the Mill area committees as institutions of the industry, in addition to engaging and cooperating with recognized trade unions;
- (b) to promote the efficiency and development of the industry;
- (c) to coordinate the activities of all sections of the industry and to promote goodwill and harmony between them;
- (d) to prescribe standard provisions governing the mutual rights and obligations of the Corporation and the growers, and to provide for the keeping of an official register of growers.
- (e) To encourage, and provide for the means of conciliation with a view to the prevention and settlement of all disputes within the industry by amicable agreement; and
- (f) To provide means for preventing and settling disputes within the industry which are not resolved by amicable agreement with the maximum of expedition and the minimum of legal form and technicality.

3.0 COMMITTEE'S DELIBERATION AND ANALYSIS OF THE BILL

3.1 Initial Reading of the Bill and Deliberation by the Committee

The Committee commenced its analysis of the Bill, reading through it, Clause by Clause. From this initial reading, it was noted that the Sugar Industry Amendment 2024 ('**Bill**') seeks to reinstate the election process of the council members of the Sugarcane Grower's Council and to facilitate appropriate amendments to the Sugar Industry Act 1984 (Cap 206) (Principal Act) to effect the proposed changes.

The Committee had extensive discussions on the provisions of the Bill and resolved that it be prudent to firstly hear the views of the public specifically the stakeholders on this very important piece of proposed legislation. This public consultation would then allow the Committee to gauge the public's perspective on the Bill before deliberating further, whilst also bearing in mind the requirements as set down by Parliament in referring the Bill to the Committee.

3.2 Bill Summary

By way of consensus, the Committee agreed that it would be prudent to include the necessary issues that the proposed law intends to address. This would readily give the reader of this Report with the aforementioned information regarding the Bill, which is summarized below;

Clause 1 provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.

Clause 2 amends section 2 of the Act to provide for the definition of terms used in the Bill.

Clause 3 amends section 32 of the Act by stating the composition of the Council.

Clause 4 amends the Act by inserting sections 34, 34A and 35 which provides for the right to vote at elections, candidate eligibility and the general elections for members of the Council.

Clause 5 amends section 36 of the Act to extend the circumstances under which a vacancy in the Council can occur.

Clause 6 amends section 37 of the Act to provide for the manner in which a vacancy in the Council is to be filled.

Clause 7 amends the Act by inserting sections 38 and 39 to provide for the supervision of an election and how questions of validity of membership to the Council may be determined.

Clause 8 amends the Act by inserting section 43 to provide for district and sector committees.

Clause 9 amends the Act by inserting sections 46 and 47 in relation to the Board of Directors of the Council and the manner in which its functions and proceedings are to be regulated.

Clause 10 amends the Act by inserting section 129A to provide for the regulation making powers of the Minister, in consultation with the Tribunal.

3.3 In-depth Analysis of the Clauses of the Bill

The Committee then had extensive discussions on the Clauses and identified certain provisions that merit proper consideration. The Committee noted that the Bill seeks to repeal some of the amendments made in 2015 and these changes were made analogously to provide a clear view of the evolvement of the Acts and the proposed Bill.

These discussions resulted in the identification of a few issues, which the Committee placed as priority issues to be further discussed and deliberated on with the representatives from the drafters. Based on the initial reading of the clauses, the Committee made comparative analysis on the Principal Act 1984, the Sugar Industry Amendment Act 2015 and the Sugar Industry Amendment Bill 2024. The main issues noted from these discussions are as follows:

Sugar Industry Amendment Act 2015	Sugar Industry Amendment Bill 2024	Views by the Standing Committee on Justice, Law and Human Rights
<p><i>Short title and commencement</i></p> <p>1. This Act may be cited as the Sugar Industry (Amendment) Act 2015.</p> <p>(2) This Act shall come into force on the date of its publication in the Gazette.</p> <p>(3) In this Act, the Sugar Industry Act (Cap. 206) shall be referred to as the “Principal Act”.</p>	<p><i>Short title and commencement</i></p> <p>1. This Act may be cited as the Sugar Industry (Amendment) Act 2024.</p> <p>(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.</p> <p>(3) In this Act, the Sugar Industry Act 1984 is referred to as the “Principal Act”.</p>	<p>Preliminary: The Committee noted that the 2015 amendment Act had amended certain provision of the Principal Act 1984 and clarification was sought on the date the Gazette was published.</p> <p>Preliminary: The Committee noted that the 2024 amendment Bill referenced the Sugar Industry Act of 1984 whilst the Principal Act documented the year 1985. For consistency purpose, the Committee sought clarification from the drafter on actual year the Principal Act was enacted.</p>
<p><i>Section 2 amended</i></p> <p>2. Section 2 of the Principal Act is amended—</p> <p>(a) by deleting the definition of—</p>	<p><i>Section 2 amended</i></p> <p>2. Section 2 of the Principal Act is amended by inserting the following new definitions—</p> <p>““Board” means the Board of Directors of the Council;”;</p>	<p>Interpretation: The Committee noted the deletion of certain definitions in the 2015 Act and the insertion of new definitions in the proposed Bill.</p>

<p>(i) ““the Board of Directors of the Council” and “the Board””; and</p> <p>(ii) ““the Commission””; and</p> <p>(b) in the definition of “the institutions of the industry” by deleting “the Commission.”.</p>	<p>““general election” means the election of the members of the Council;”; and</p> <p>““Minister” means the Minister responsible for sugar;”.</p>	
<p>3. Section 3 of the Principal Act is amended in paragraph (a) by deleting “the Commission.”.</p>	<p>No amendment to Section 3 of the Principal Act.</p>	<p>The Committee noted that the Bill does not intend to repeal the 2015 amendment based on the new definitions listed under Clause 2 of the Bill. The Committee, therefore noted that the ‘Commissioner’ is substituted by the ‘Minister’ responsible for Sugar.</p>
<p><i>Part II deleted</i></p> <p>4. The Principal Act is amended by deleting Part II on the Sugar Commission of Fiji.</p>	<p>No amendment to Part II of the Principal Act.</p>	<p>Principal Act (Part II: The Sugar Commission of Fiji): The Committee noted that 14 sections of the Principal Act was deleted as per the amendment of 2015. The Committee then sought clarification on the reason(s) there were no amendments of 2024 Bill to reinstate these provisions.</p>
<p><i>Section 18 amended</i></p> <p>5. Section 18 of the Principal Act is amended in—</p> <p>(a) in subsection (2) by deleting “after consultation with the Commission,”; and</p>	<p>No amendment to Section 18 of the Principal Act.</p>	<p>Section 18(4): The Committee noted that the 2015 amendment in subsection (4) refers to 'chairperson' rather than 'chairman'. In considering Gender Equality, the Committee sought clarification on whether the amendment intended to change the</p>

<p>(b) in subsection (4) by deleting “after consultation with the Chairperson of the Commission,”.</p>		<p>definition of the position or remain status quo.</p>
<p><i>Section 22 amended</i> 6. Section 22 of the Principal Act is amended in subsection (1) by deleting “after consultation with the Commission”.</p>	<p>No amendment to Section 22 of the Principal Act.</p>	<p>The Committee noted that Bill does not repeal the 2015 amendments of section 22 of the Principal Act given that the term ‘Commission’ also known as the Sugar Commission of Fiji’ has been removed in the 2015 Amendment Act.</p>
<p><i>Section 24 amended</i> 7. Section 24 of the Principal Act is amended by deleting “Higher Salaries Commission” and substituting with “Minister”.</p>	<p>No amendment to Section 24 of the Principal Act.</p>	<p>The Committee noted that the Bill does not repeal the 2015 amendment in section 24 of the Principal Act which states that remuneration and allowance payable to any officers or servants of the Tribunal shall be determined from time to time by the Minister.</p>
<p><i>Section 26 amended</i> 8. Section 26 of the Principal Act is amended in paragraph (n) by deleting “and any matter affecting industrial relations within the industry which is referred to the Tribunal by the Commission”.</p>	<p>No amendment to Section 26 of the Principal Act.</p>	<p>The Committee noted that the Bill does not repeal the 2015 amendments of section 26 of the Principal Act given that the term ‘Commission’ also known as the Sugar Commission of Fiji’ has been removed in the 2015 Amendment Act.</p>
<p><i>Section 27 amended</i> 9. Section 27 of the Principal Act is amended by deleting “the Commission,” wherever it appears.</p>	<p>No amendment to Section 27 of the Principal Act.</p>	<p>The Committee noted that Bill does not repeal the 2015 amendments of section 27 of the Principal Act given that the term ‘Commission’ also known as the Sugar Commission of Fiji’ has been removed in the 2015 Amendment Act.</p>

<p><i>Section 28 amended</i></p> <p>10. Section 28 of the Principal Act is amended by deleting “the Commission,” in paragraph (b).</p>	<p>No amendment to Section 28 of the Principal Act.</p>	<p>The Committee noted that Bill does not repeal the 2015 amendments of section 28 of the Principal Act given that the term ‘Commission’ also known as the Sugar Commission of Fiji’ has been removed in the 2015 Amendment Act.</p>
<p><i>Section 32 amended</i></p> <p>11. Section 32 of the Principal Act is amended—</p> <p>(a) by deleting subsection (1) and substituting the following—</p> <p>“(1) The Council shall consist of the following persons who shall be appointed by the Minister—</p> <p>(a) 2 elected representatives from each of the following cane producers’ association—</p> <p>(i) Rarawai and Penang Cane Producers’ Association;</p> <p>(ii) Labasa Cane Producers’ Association; and</p> <p>(iii) Lautoka Cane Producers’ Association;</p> <p>(b) the Commissioner for the Western Division;</p> <p>(c) the Commissioner for the Northern Division; and</p> <p>(d) a representative of the Ministry of Sugar.”;</p>	<p><i>Section 32 amended</i></p> <p>3. The Principal Act is amended by deleting section 32 and substituting the following—</p> <p>“<i>Composition of the Council</i>”</p> <p>32.—(1) The Council consists of one representative from each sector.</p> <p>(2) A representative on the Council under subsection (1) must be a registered grower elected by registered growers within his or her sector.</p> <p>(3) The chairperson and vice-chairperson of the Board must act as the chairperson and vice-chairperson of the Council respectively.</p> <p>(4) The elected members of the Council must be taken for the purposes of this Act to represent on the Council, the districts and the mill areas in which they are registered growers and the sectors which they have been elected to represent on the Council.”.</p>	<p>Clause 32 (Composition of the Council): The Committee noted that the proposed amendment to section 32 of the Principal Act provides a new provision on the composition of the Council. The Committee sought clarification on the selection criteria of candidates to the council.</p>

<p>(b) by deleting subsection (2) and substituting the following— “(2) The Minister shall appoint the Chairperson of the Council.”; and</p> <p>(c) deleting subsection (3).</p>		
<p><i>Section 33 amended</i> 12. Section 33 of the Principal Act is amended by—</p> <p>(a) deleting “as a representative of any sector if he or she is not a registered grower in that sector, and as a representative of any district if he or she is not a registered grower in a sector in that district; or”;</p> <p>(b) in paragraph (c) by deleting “under subsection (2) of section 40” and inserting “; or” after “Council”; and</p> <p>(c) by inserting the following new paragraph after paragraph (c)—</p> <p>“(d) he or she is not a registered grower.”</p>	<p>No amendment to Section 33 of the Principal Act.</p>	<p>The Committee noted that there is a new inclusion to provision on ‘disqualification of membership of the council’ on section 33 of the Principal Act. The person is disqualified if he or she is not a registered grower.</p>

<p><i>Section 34 deleted</i></p> <p>13. Section 34 of the Principal Act is deleted.</p>	<p><i>Sections 34, 34A and 35 inserted</i></p> <p>4. The Principal Act is amended after section 33 by inserting the following new sections—</p> <p><i>“Right to vote at election”</i></p> <p>34.—(1) Subject to subsection (4), a person entitled to vote in an election under this Part must be registered in that sector at the date of the election.</p> <p>(2) The Registrar of the Tribunal must, on the request of the Chief Executive of the Council, provide a certified list of all registered growers in each sector.</p> <p>(3) The Chief Executive of the Council must make available to any candidate in an election an extract from the list under subsection (2), showing the names of registered growers in his or her sector.</p> <p>(4) A registered grower who is found to be of unsound mind is not eligible to vote in an election conducted under this Part.</p> <p>(5) A registered grower who is eligible to vote at an election may appoint another person who manages the registered grower’s farm under an instrument of proxy, to vote at the election on behalf of the registered grower.</p> <p>(6) An instrument of proxy in this section must be in the form and must also contain such particulars as</p>	<p>The Committee noted section 34 of the Principal Act was repealed in 2015 and the Bill seeks to re-introduce section 34 of the Principal Act with a new sub-clause 34A which provides for the right to vote at elections, candidate eligibility and the general elections for members of the Council. The Committee noted that clause 34 sets out the voting criteria and the instruments that a person can use to vote on behalf of a registered grower. The Committee also noted that clause 34A sets-out the eligibility criteria for a registered grower to contest for council election.</p>
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	<p>the Tribunal may determine.</p> <p>(7) Any question as to the right of a registered grower to vote at an election under this Part and any other question arising in connection with the election must be determined by the Tribunal.</p> <p>(8) In this section, “instrument of proxy” includes a power of attorney.</p> <p><i>Candidate eligibility</i></p> <p>34A.—(1) A person is eligible to contest an election if the person—</p> <ul style="list-style-type: none"> (a) is a registered grower; (b) has produced an annual cane amount as prescribed by regulations; (c) is not an elected representative of any cane producers’ association; and (d) is of sound mind. <p>(2) The Registrar of the Tribunal, in consultation with the Chief Executive of the Council is responsible for verifying the eligibility of candidates in accordance with subsection (1).</p> <p>(3) Any person who fails to meet the eligibility criteria in subsection (1) is not eligible to contest an election.</p>	
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<p><i>Section 35 deleted</i></p> <p>14. Section 35 of the Principal Act is deleted.</p>	<p><i>General election</i></p> <p>35.—(1) Subject to sections 36 and 37, each member of the Council must be elected at a general election and hold office until the next general election.</p> <p>(2) A general election must be held every 3 years.”.</p>	<p>The Committee noted that section 35 of the Principal Act on ‘<i>Triennial elections of the members of the council</i>’ was repealed in 2015 and the Bill seeks to re-introduce section 35 of the Principal Act.</p>
<p><i>Section 36 amended</i></p> <p>15. Section 36 of the Principal Act is amended in subsection (1) by deleting—</p> <p>(a) “as representative on the Council of any sector”; and</p> <p>(b) “under subsection (1) of section 35” in paragraph (b).</p>	<p><i>Section 36 amended</i></p> <p>5. Section 36 of the Principal Act is amended by deleting subsection (1) and substituting the following—</p> <p>“(1) A vacancy in the Council occurs—</p> <p>(a) on the death of a member of the Council;</p> <p>(b) if a member of the Council is disqualified from holding office under section 33;</p> <p>(c) at the expiration of a member’s term of office; or</p> <p>(d) if a member of the Council resigns in accordance with subsection (2).”.</p>	<p>The Committee noted that the Bill seeks to amend section 36(1) with a new provision that specifies conditions on the vacancy of council membership.</p>
<p><i>Section 37 deleted</i></p> <p>16. Section 37 of the Principal Act is deleted and substituted with the following new section—</p> <p><i>“Filling of vacancies caused by death, resignation or disqualification</i></p>	<p><i>Section 37 amended</i></p> <p>6. The Principal Act is amended by deleting section 37 and substituting the following—</p> <p>“Filling of vacancies in the Council</p> <p>37.—(1) Where there is a vacancy in the Council, an election must be held to fill the vacancy in the sector of</p>	<p>The Committee noted that the proposed amendment to section 37 of the Principle Act provides a new provision on the ‘filing of vacancies in the council’. The Committee queried the timeline to conduct an election of council given that a scenario of delaying in</p>

<p>37. Where a vacancy occurs in the Council the Minister shall appoint a prominent grower to fill that vacancy.”</p>	<p>which the former member was a representative in accordance with section 39 and the person elected must hold office as a representative of the sector until the date of the next general election.</p> <p>(2) An election must not be held under this section for any vacancy occurring within 6 months before the next general election.”.</p>	<p>electing a representative from a sector would occur. It was suggested that a clause should be provided for an election to take place immediately so that farmers are not affected by not being represented in the council.</p>
<p>No Amendments</p>	<p><i>Sections 38 and 39 inserted</i></p> <p>7. The Principal Act is amended after section 37 by inserting the following new sections—</p> <p><i>“Supervision of election</i></p> <p>38.—(1) The Industrial Commissioner or any independent body appointed by the Minister has the general responsibility for, and must supervise the conduct of, a general election or an election.</p> <p>(2) Minister must make such arrangements as he or she thinks is necessary for a general election or an election, including the following—</p> <p>(a) making and receipt of nominations of candidates;</p> <p>(b) manner of voting;</p> <p>(c) preparation and distribution of ballot papers;</p>	<p>The Committee noted that the proposed amendment to section 38 of the Principle Act provides a new provision on the ‘supervision of election’. The Committee queried on the rationale of amending ‘Independent Chairman’ to ‘Independent Commission or a body appointed by the Minister’ to be responsible for the general election of the Council. The Committee was of the view that having more than one body to conduct an election would create an unsystematic bureaucracy depending on satisfactory criteria, therefore the provision outlined in section 38 of the Principal Act is deemed viable. In that regard, the Committee sought clarification of OSG on this provision.</p>

	<p>(d) establishment of polling stations;</p> <p>(e) counting of votes; and</p> <p>(f) appointment of persons to receive and count votes.</p> <p>(3) Not less than 28 days before the date fixed to hold a general election or election, the Industrial Commissioner or independent body appointed by the Minister, must publish a notice in the Gazette of the following—</p> <p>(a) the date to hold an election; and</p> <p>(b) the particulars of the arrangements under subsection (2).</p> <p>(4) The Tribunal may declare the election of any person at the general election to be invalid, and may direct that a fresh election be held in that sector, subject to any condition and in accordance with any arrangement as the Chief Executive of the Council in consultation with the Registrar of the Tribunal thinks fit.</p>	
<p><i>Section 39 deleted</i></p> <p>17. Section 39 of the Principal Act is deleted.</p>	<p>The Principal Act is amended after section 38 by inserting the following new section—</p> <p style="text-align: center;"><i>Determination of question of membership</i></p> <p>39.—(1) The Tribunal may, of its own discretion or on written request being made to it by the Chief Executive of the Council or any registered grower entitled to vote at</p>	<p>The Committee noted that the Bill seeks to re-introduce section 39 of the Principal Act and inserting a new clause on ‘<i>Determination of question of membership</i>’. The provision allows the tribunal to receive grievances relating to a council member been validly elected to the Council and adjudicating the fate of the council member</p>

	<p>an election under this Act, hear and determine any question whether—</p> <p>(a) a person has been validly elected at any election as a member of the Council; or</p> <p>(b) any member of the Council has vacated his or her office under section 36.</p> <p>(2) At the hearing of any proceedings under subsection (1) and where the Tribunal is satisfied that a person claiming to have been validly elected at any election has been guilty of an offence under any written law, the Tribunal may make an order disqualifying that person for appointment to the Council for a period not exceeding 3 years.”.</p>	<p>based on findings collated from the proceedings.</p>
<p>18. Section 40 of the Principal Act is deleted.</p>	<p>No amendment to Section 40 of the Principal Act.</p>	<p>Committee noted that the new insertion of clause 39 ‘Determination of question of membership’ and replaced section 40 of the Principal Act.</p>
<p><i>Section 41 deleted</i></p> <p>19. Section 41 of the Principal Act is deleted.</p>	<p>No amendment to Section 41 of the Principal Act.</p>	<p>The Committee noted that section 41 of the Principal Act was deleted on the ‘representation on the council of minority groups’ and was not considered for re-insertion in the current amendment Bill. The Committee therefore sought clarification on the non-consideration of minority groups or whether this has been covered in other provision of the Act.</p>
<p><i>Section 43 deleted</i></p> <p>20. Section 43 of the Principal Act is deleted.</p>	<p><i>Section 43 inserted</i></p> <p>8. The Principal Act is amended after section 42 by inserting the following new section—</p>	<p>The Committee noted that the Bill seeks to re-introduce section 43 of the Principal Act</p>

	<p style="text-align: center;"><i>“District and sector committees</i></p> <p>43.—(1) The Council must appoint a committee of the Council for each district and for each sector for the purpose of assisting the Council within that district or sector in the exercise of its functions under this Act.</p> <p>(2) The mutual relationship of the Council and the district and sector committees appointed under subsection (1) must be determined by the Council.</p> <p>(3) The Council may appoint any other committee to provide advice on the exercise of any of its functions under this Act.”.</p>	<p>by inserting a new clause that establishes ‘<i>District and Sector Committees</i>’ .</p>
<p><i>Section 46 deleted</i></p> <p>21. Section 46 of the Principal Act is deleted.</p>	<p style="text-align: center;"><i>Sections 46 and 47 inserted</i></p> <p>9. The Principal Act is amended after section 45 by inserting the following new sections—</p> <p style="text-align: center;"><i>“Board of Directors of the Council</i></p> <p>46.-(1) There must be a Board of Directors of the Council which consists of representatives from each district.</p> <p>(2) A representative on the Board under subsection (1) must be elected by members of the Council whose sectors are part of his or her district.</p> <p>(3) The chairperson and vice-chairperson must be elected by the directors</p>	<p>The Committee noted that the Bill seeks to re-introduce section 45 of the Principal Act and inserting a new clause that establishes ‘<i>Board of Directors of the Council</i>’</p> <p>The Committee sought clarification on how the members of the board elects by the council whose sectors are part of his or her district.</p>

	<p>from amongst the members of the Board.</p> <p>(4) The chairperson, vice-chairperson and directors must hold office until the date of the general election following the date on which they were elected to the Board or until the date on which they may otherwise vacate their offices under subsection (7), whichever is the earlier date.</p> <p>(5) The Chief Executive of the Council must convene a district meeting of the Council immediately following a general election for the purpose of electing the directors of the Board.</p> <p>(6) The Chief Executive of the Council must convene a meeting of the Board immediately after the election of directors for the purpose of electing the chairperson and the vice-chairperson, and the Chief Executive of the Council must preside over that meeting until the chairperson of the Board is elected.</p> <p>(7) The chairperson, vice-chairperson or a director must vacate his or her office—</p> <p>(a) upon ceasing to be a member of the Council;</p> <p>(b) upon resigning from his or her office by notice in writing to the Chief</p>	
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	<p>Executive of the Council; or</p> <p>(c) upon the Council passing a resolution dismissing him or her from office as the chairperson, vice-chairperson or director of the Board, as the case may be.</p> <p>(8) Where there is a vacancy in the office of any Board member, another person must be elected in his or her place in accordance with this section and, upon being elected, he or she must, subject to subsection (9), hold office until the date of the next general election.</p> <p>(9) An election must not be held under subsection (8) in respect of any vacancy occurring within 6 months before the next general election.</p>	
<p><i>Section 47 deleted</i></p> <p>22. Section 47 of the Principal Act is deleted.</p>	<p><i>Functions and proceedings of the Board</i></p> <p>47. The functions and proceedings of the Board must be regulated by regulations.”.</p>	<p>The Committee noted that the Bill seeks re-introduce section 47 of the Principal Act and inserting a new clause that provides the ‘<i>Functions and proceedings of the Board</i>’</p> <p>The Committee noted that the Standing Orders that will specify functions of the Board will be replaced by regulations and clarification was sought to determine if the Standing Orders approved by the Council stated in section 47 is same as regulation approved by the council stated in section 39.</p>

<p><i>Section 48 amended</i></p> <p>23. Section 48 of the Principal Act is amended—</p> <p>(a) in subsection (1) by deleting “Board of Directors” and “Board” and substituting with “Council”;</p> <p>(b) in subsection (2) by deleting—</p> <p>(i) “Board of Directors” and substituting with “Council”; and</p> <p>(ii) “and of the Board of Directors under this Act,”.</p>	<p>No amendment to Section 48 of the Principal Act.</p>	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 48 ‘Chief Executive and Officers of the Council’ . The amendment shall read as</p> <p>(1) “There shall be a chief executive of the council who shall be appointed by the Council and who shall perform such functions as appointed by the Council.</p> <p>(2) The board of Directors may appoint and employ such officers, servants and agents as it thinks fit for the proper carrying out of functions of the Council.</p> <p>The Committee further noted possible discriminatory word and sought clarification on the difference between 'Officers', 'servants' and 'agents' as listed under section 48(2).</p>
<p><i>Section 49 amended</i></p> <p>24. Section 49 of the Principal Act is amended by—</p> <p>(a) deleting subsection (1);</p> <p>(b) deleting “Board of Directors” and substituting with “Council” in subsection(2); and</p> <p>(c) inserting “meetings” after “travelling” in subsection (3).</p>	<p>No amendment to Section 49 of the Principal Act.</p>	<p>The Committee noted that as per the 2015 amendment Act, section 49 specifies the remuneration and allowances payable to the Chairman and Vice-Chairmen of the Council and also that the members of the council shall be entitled to such allowance in respect to travelling meetings and subsistence expenses as shall be determined by the Council.</p> <p>The Committee sought clarification of having more than 1 vice-chairmen of the</p>

		council and the meaning of "travelling meetings" as per the amendment of 2015.
<p><i>Section 50 amended</i></p> <p>25. Section 50 of the Principal Act is amended—</p> <p>(a) in the heading by deleting "Commission" and substituting with "Council";</p> <p>(b) by deleting "or of the Board of Directors" in paragraph(a); and</p> <p>(c) by deleting "appointed under section 43" in paragraph (b).</p>	No amendment to Section 50 of the Principal Act.	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 50 'Protection of members, officers and servants of the Council'. The amendment shall read as</p> <p>50- subject to section 55, no act or thing done by;</p> <p>(a) Any member of the council;</p> <p>(b) Any member of the committee of the Council.</p> <p>(c) The person appointed by the Chief Executive of the Council or any other officer, servant or agent of the Council, shall if the act or thing was done bona fide for the purpose of this act subject him personally to any liability , claim or demand whatsoever.</p>
<p><i>Section 51 amended</i></p> <p>26. Section 51 of the Principal Act is amended by deleting "and of the Board of Directors".</p>	No amendment to Section 51 of the Principal Act.	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 51 'General levies'. The amendment shall read as the Council shall have power to raise a general levy in each year to defray the administrative expenses of the Council. (<i>the Board of Directors has been excluded as per the 2015 amendment</i>).</p>

<p><i>Section 53 amended</i></p> <p>27. Section 53 of the Principal Act is amended in subsection (3) by deleting “Board of Directors” and substituting with “Council”.</p>	<p>No amendment to Section 53 of the Principal Act.</p>	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 53 (3) ‘Collection of levies’. The amendment shall read as-</p> <p>Where the Accountant of the tribunal, without good cause, fails or refuses to issue a certificate under sub-section 1 the Tribunal may direct him to issue a certificate upon written application being made to the Tribunal in that behalf by the Council.</p>
<p><i>Section 54 amended</i></p> <p>28. Section 54 of the Principal Act is amended by deleting “Board of Directors” and substituting with “Council” wherever it appears.</p>	<p>No amendment to Section 54 of the Principal Act.</p>	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 54 of the Principal Act on ‘Annual Reports and Accounts’. The amendment shall read as-</p> <ol style="list-style-type: none"> (1) The Council shall, soon as may be after the end of each year, furnish the Accountant of the Tribunal with a detailed financial statement for that year certified by the auditor of the Council. (2) No amendment. (3) The Council shall submit to the Minister, as soon as may be after the end of each year, a report of the activities of the Council during that year; (4) Copies of the detailed financial statement and report shall be submitted by the Council to the Minister and laid before Parliament.

<p><i>Section 57 amended</i></p> <p>29. Section 57 of the Principal Act is amended—</p> <p>(a) in subsection (1)—</p> <p>(i) paragraph (a) by deleting “Chairperson of the Commission” and substituting with “Industrial Commissioner”;</p> <p>(ii) deleting paragraph (b); and</p> <p>(iii) in paragraph (c) by deleting “by the Board of Directors of the Council to represent”; and</p> <p>(b) in subsection (2) by deleting “Board of Directors of the”.</p>	<p>No amendment to Section 57 of the Principal Act.</p>	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 57 of the Principal Act on ‘Composition of Mill Area Committees’. The amendment shall read as-</p> <p>57.—(1) A Mill Area Committee shall consist of –</p> <p>(a) a Chairman, who shall be the Industrial Commissioner;</p> <p>(b) the Industrial Commissioner;</p> <p>(c) a member who shall be a full-time employee of the Council appointed by the Board of Directors of the Council to represent the Council;</p> <p>(2) The Board of Directors of the Council shall appoint – (a) to the Labasa Mill Area Committee, six members from among the registered growers in that mill area to represent those growers on that Committee; (b) to the Lautoka Mill Area Committee, six members from among the registered growers in that mill.</p>
<p><i>Section 60 amended</i></p> <p>30. Section 60 of the Principal Act is amended by deleting paragraph (c) and substituting with the following new paragraph—</p> <p>“(c) to advise the Tribunal of all matters referred to it by the Tribunal as the case maybe; and”.</p>	<p>No amendment to Section 60 of the Principal Act.</p>	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 60 of the Principal Act on ‘Function of Mill Areas’. The amendment shall read as-</p> <p>The functions of a Mill Area Committee shall be generally to encourage and promote good relations between persons engaged within the mill area of the Committee in the cultivation and harvesting of cane, the transport of cane to the mill in that area, the</p>

		<p>crushing of cane and making of sugar at that mill and the transport and storage of sugar made at that mill, and, in particular –</p> <p>c) to advise the Tribunal of all matters referred to it by the Tribunal as the case maybe; and”.</p> <p>e) to advise the Tribunal and the Commission of all matters referred to it by the Tribunal or the Commission, as the case may be; and</p>
<p><i>Section 61 amended</i></p> <p>31. Section 61 of the Principal Act is amended—</p> <p>(a) in subsection (1) by deleting</p> <p>“Chairperson of the Commission” and substituting with “Industrial Commissioner”;</p> <p>(b) by deleting subsection (2); and</p> <p>(c) in subsection (7) by deleting “Commission” and substituting with “Tribunal”.</p>	<p>No amendment to Section 61 of the Principal Act.</p>	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 61 of the Principal Act on ‘Meeting of Mill Area Committees’. The amendment shall read as-</p> <p>(1) Subject to the following provisions of this section, the Industrial Commissioner shall preside at all meetings of a Mill Area Committee in his capacity as Chairman of the Committee.</p> <p>(2) In the absence of the Chairman of the Committee any person appointed to act as Chairman of the Commission under subsection (4) of section 5 shall preside at meetings of a Mill Area Committee, and in the absence of both the Chairman of the Committee and of such person, the Industrial Commissioner shall preside at the meeting.</p>

		(7) Subject to the foregoing provisions of this section, the quorum and procedure at such meetings shall be regulated by the Tribunal.
<p><i>Section 62 amended</i></p> <p>32. Section 62 of the Principal Act is amended by deleting “Commission” and substituting with “Tribunal”.</p>	No amendment to Section 62 of the Principal Act.	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 62 of the Principal Act on ‘Meeting of Mill Area Committees’. The amendment shall read as-</p> <p>The representative members of a Mill Area Committee shall be entitled to such allowances in respect of travelling and subsistence expenses and loss of remunerative time as shall be determined by the Tribunal.</p>
<p><i>Section 63 amended</i></p> <p>33. Section 63 of the Principal Act is amended by deleting subsection (3).</p>	No amendment to Section 63 of the Principal Act.	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 63 of the Principal Act on ‘Financial Provision’. The Committee sought clarification on the existence of subsection 3 and was advised that section 3 was inserted through the Sugar Industry (Amendment No. 3) Decree 1988 and initially read as follows-</p> <p>The accounts referred to in subsection (2) shall be submitted to the Commission as soon as they have been audited and shall be included in the Commission’s report prepared in accordance with section 17.</p>

<p><i>Section 65 amended</i></p> <p>34. Section 65 of the Principal Act is amended—</p> <p>(a) in subsection (1) by deleting “the Commission,”;</p> <p>(b) by deleting subsection (2) and substituting with—</p> <p>“(2) The Tribunal in the preparation of the Master Award shall endeavour to obtain the unanimous agreement of all its members, and the agreement of the Council and the Corporation, to all the provisions it proposes to be included in the Master Award.”;</p> <p>(c) in subsection (3) by deleting “the Commission,”;</p> <p>(d) in subsection (4) by deleting “the Commission,” wherever it appears;</p> <p>(d) in subsection (4A) by deleting “the Commission,” and</p> <p>(f) in subsection (5)—</p> <p>(i) by deleting “the Commission,” and</p> <p>(ii) by deleting “Chairperson of the Commission” and substituting with “Minister”.</p>	<p>No amendment to Section 65 of the Principal Act.</p>	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 65 of the Principal Act on ‘Consultations and publicity in connection with the preparation of the Master Award’. The Committee sought clarification on the existence of subsection 4A and was advised that the provision was inserted through the Sugar Industry (Amendment No. 3) Decree 1988 and initially read as follows-</p> <p>The Tribunal shall as soon as possible after receipt by it of any representation under subparagraph (ii) of paragraph (d) of sub-section 4 furnish copies of them to the Commission, the Council and the Corporation.</p> <p>(1) When preparing the Master Award, the Tribunal shall consult the Commission, the Council and the Corporation with respect to all the provisions which the Tribunal proposes to include in the Master Award.</p> <p>(2) The Tribunal in the preparation of the Master Award shall endeavour to obtain the unanimous agreement of all its members, and the agreement of the Council and the Corporation, to all the provisions it proposes to be included in the Master Award. The Commission shall assist the Tribunal in the preparation of the Master Award and shall endeavour to obtain the unanimous</p>
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		<p>agreement of all its members, and the agreement of the Council and the Corporation, to all the provisions proposed by the Tribunal to be included in the Master Award.</p> <p>(3) Subject to subsection (4), after considering the views which may have been expressed in writing by the Commission, the Council or the Corporation in the course of consultations held under subsection (1), the Tribunal shall –</p> <p>(4) Subject to subsection (5), the Tribunal, after considering the representations made to it in writing by any person with respect to the draft of the Master Award, after consulting the Commission, the Council and the Corporation with respect to those representations, and after considering the views which may have been expressed in writing by the Commission, the Council or the Corporation on those representations, may, if it considers it desirable or expedient to do so –</p> <p>(5) The Tribunal shall not include in any draft of the Master Award under this section any provision which has not been agreed by the Commission, the Council and the Corporation unless the Tribunal, after consultation with the Minister Chairman of the Commission, is satisfied that no useful purpose would</p>
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		be served in endeavouring to obtain such agreement.
<p><i>Section 66 amended</i></p> <p>35. Section 66 of the Principal Act is amended—</p> <p>(a) in subsection (1)—</p> <p>(i) by deleting “the Commission,”; and</p> <p>(ii) by deleting “the Commission,” in paragraph (b)(ii);</p> <p>(b) in subsection (2)—</p> <p>(i) by deleting “the Commission,”; and</p> <p>(ii) by deleting “after consultation with the Chairperson of the Commission,”;</p> <p>(b) in subsection (3)(c) by deleting- “the Commission,”;</p> <p>(d) by deleting subsection (8) and substituting with the following new subsection— “(8) The Council and the Corporation shall be entitled to be represented at the Inquiry by any of their respective directors, officers or servants duly authorised in that behalf, and shall be entitled to be heard on any matter on which evidence or argument is presented to the Tribunal at the Inquiry.”;</p> <p>and</p> <p>(e) by deleting subsection (10).</p>	<p>No amendment to Section 66 of the Principal Act.</p>	<p>The Committee noted that the Bill does not seek to repeal the 2015 amendment on section 66 of the Principal Act on ‘Public inquiry to be held by the Tribunal with respect to the draft Master Award’. The Committee sought clarification on the existence of the section 66(1) and was advised that provision was inserted through the Sugar Industry (Amendment No. 3) Decree 1988 and initially read as follows-</p> <p>“After considering any representations made to it in writing with respect to any draft of the Master Award under section 65 and any views which the <u>Commission</u>, the Council or the Corporation may have expressed in writing on the representations or otherwise, the Tribunal shall-</p> <p>(2)The Tribunal shall not include in the fresh draft of the Master Award under paragraph (a) of subsection (1) any provision which has not been agreed by the Commission, the Council and the Corporation unless the Tribunal, after consultation with the Chairman of the Commission, is satisfied that no useful purpose would be served in endeavouring to obtain such agreement.</p> <p>3(c) inviting objections by any person to be made to the Tribunal at the Inquiry with</p>

		<p>respect to that draft of the Master Award, and requiring any person intending to make any such objection to furnish the Tribunal, not later than fourteen days before the date specified under paragraph (a) for the holding of the Inquiry, with a statement of the matters to which the objection relates and the grounds on which he intends to make that objection.</p> <p>(8) The Commission, the Council and the Corporation shall be entitled to be represented at the Inquiry—</p> <p>(a) in the case of the Commission, by the Chairman of the Commission or any other member of the Commission duly authorised in that behalf; and</p> <p>(b) in the case of the Council and the Corporation by any of their respective directors, officers or servants duly authorised in that behalf, and shall be entitled to be heard on any matter on which evidence or argument is presented to the Tribunal at the Inquiry.</p> <p>(10) The Tribunal may, at any time before or during the holding of the Inquiry, remit to the Commission any matter relating to an objection made or intended to be made at the Inquiry for the Commission to inquire into and to report to the Tribunal on its findings with such recommendations as the Commission shall think fit.</p>
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3.4 Submission received via public consultation

All the submissions received during the public consultation were considered and deliberated on extensively. The main points and issues noted from the submissions are summarised below.

Submissions received provided a range of comments and suggestions, which cover various issues pertaining to certain Clauses of the Bill.

A copy of the oral and written submission can be obtained from the online Appendices of the Report, which can be accessed via the Parliament website: www.parliament.gov.fj

Election

Clause 35 of the Bill specifies that each member of the Council must be elected at a general election and hold office until the next general election in which the general election must be held every 3 years. With respect to the submission received by the Committee, majority of the submitters were in favour of re-instating council elections with the perception that it would stop political interference by having farmers choose council members directly. With the establishment of councilors and the election process, farmers will have representative in the Sugar Cane Growers Council to raise concerns regarding cane farming issues. It was suggested that elected councilors be responsible for farm access roads and drainage systems to increase cane production. This responsibility should not be in the purview of the advisory councilor nominated by the government and that farmers affairs should be separated from advisory councilors' roles. In this case, it was suggested that there be two representatives from each sector supporting the CEO, which focuses on improving cane production. Additionally, it was suggested that candidates who want to stand for elections must volunteer with no salary attached as this would ensure a genuine representative. It was further suggested that larger sector be represented more per ratio in the council and that representation should depend on amount of cane produced annually by a farmer.

However, some raised concerns on the re-instatement of election given that farmers might have to pay additional fees in the future to cover the expenses of running elections and possibly paying for councillor's salary. In addition, the Growers' Council was perceived as ineffective, lacking representation and failing to hold mills accountable for preparedness. Some concerns raised on the cost of running an election and suggested that the estimated \$200,000 budget allocation election could be redirected to critical farmer needs which includes subsidizing labor, transportation, machinery, drainage upgrades, and road improvements. The same sentiment was echoed by a submitter suggesting that the 38 Councilors estimated to receive \$820,800 over 3 years should be be diverted to support and assist farmers directly.

Candidate Eligibility

Clause 34 specifies that a person is eligible to contest an election if the person is a registered grower; has produced an annual cane amount as prescribed by regulations; is not an elected representative of any cane producers' association; and is of sound mind. In respect to the submission received with regards to council elections, there were proposals that candidates should be Fiji citizens with at least two years of residency, have no criminal record or bankruptcy history, and be subject to nomination objections by the public. Furthermore, some suggested that a farmer should at least yield more than 50 to 100 tonnes of cane to be eligible for election. Other views suggested that farmers should have basic qualifications and literacy (read and write) and that he/she should be provided the right to vote or stand as long that person is a registered grower. Thus, there were concerns on highlighting the need to differentiate between registered growers and productive growers as only 10,000 out of 16,000 registered growers are productive.

In respect to women empowerment, it was suggested that women should have equal rights in the field of sugar cane farming and that they should also have the right to vote and stand for council election. Additionally, it was proposed that five (5) seats in the council be reserved for women and that candidates who wish to stand for council elections should not be politically affiliated to any political party. However, some suggested that farmers should not be restricted by political affiliation as every individual has the right to association to any political party, hence be given the freedom to participate. It was noted that the rationale of these suggestions was to ensure that the eligibility criteria would streamline candidates that are genuine, committed and would represent the best interest of cane farmers.

Supervising of Election

Clause 38 (1) specifies that the Industrial Commissioner or any independent body appointed by the Minister has the general responsibility for, and must supervise the conduct of, a general election or an election. With respect to the submission received from the public, there was a degree of agreement that the provision was sufficient as it ensures neutrality, while the Sugar Industry Tribunal maintains the growers' register and ensures regulatory compliance. With suggestion that supervision of elections be looked after by an independent body to ensure the conduct of fair election, some opted otherwise and suggested that retaining the provision would save cost as compared to hiring an external independent body to conduct Council elections.

Furthermore, a submitter objected to the transferring of election oversight from the chief executive to the registrar/industrial commissioner which would grant excessive power to one individual and therefore it was suggested that the Chief Executive Officer of the Sugar Cane Growers Council be the appointed officer to supervise the conduct of the general election.

Right to Vote at election

Clause 34 provides a registered grower to participate in Council elections through voting. This clause is essential for ensuring that the voices of those directly involved in Sugar cane sector are heard in the decision-making process. However, following the public consultations there was significant opposition to the proposed introduction of voting by proxy. Many community members strongly advocated that Council members should be registered growers who are not only residents of Fiji but also preferably live on their farms. This requirement was emphasized to preserve the integrity of the Council and to ensure that its members have direct and active involvement in the agricultural sector.

Furthermore, the importance of in-person attendance at Council meetings was also highlighted as it strengthens accountability and indicates a genuine commitment to the responsibilities associated with council membership. In addition, stakeholders suggested that the term “unsound mind” as referenced in Clause 34(4) of the Bill should be removed. This term was viewed as restrictive and limiting as it could infringe upon an individual’s fundamental right to vote which would undermine the democratic process within the cane farming communities.

Levy

Sections 51, 52 and 53 of the Principal Act continue to include provisions for levy deductions specifically designed for farmers and notably these sections have not undergone any amendments since its inception in 1984. It has been emphasized that the government has chosen to support the Sugar industry through direct grants while simultaneously preserving the existing provisions in the parent act. The dual approach aims to provide immediate financial support while ensuring that the foundational regulations remain intact.

Moreover, it was highlighted that one of the significant advantages of levy deductions is that farmers have ownership of the Sugar Cane Growers Council building located in Lautoka. This ownership not only empowers farmers but also provide ongoing benefits that can enhance livelihoods of farmers in future. Given this context, it has been suggested that the government should continue in allocating yearly grant to the Sugar sector and that the provisions in the parent act be maintained as it will facilitate various developmental initiatives for farmers. By continuing this support, the government can help ensure the sustainability and growth of the sugar industry ultimately benefiting both farmers and the economy.

Filling of Vacancy

Clause 37 specifies that an election must take place where there is a vacancy in the Council and election must not take place six months prior to the next general election. Regarding the submissions that have been received, majority supports that, in the event of a vacancy, the next most high ranked candidate be appointed to fill the position.

Furthermore, it was also suggested that there should be a mechanism in place to allow for alternate members to assume responsibilities in the case of such vacancy. The proposal was put forth with the understanding that it would mitigate the additional cost associated with conducting elections for every vacancy occurs within the Council.

Power of Attorney

Clause 34(5) of the Bill specifies that under an instrument of proxy, a registered grower eligible to vote can designate someone who manages their farm to vote on their behalf during election. Clause 34 (8) provides that an ‘instrument of proxy’ includes a power of attorney.

Concerns were raised regarding the use of power of attorney by farmers particularly in relation to the potential misuse of this authority when voting for a specific candidate. It was noted that the holder of the power of attorney may cast a vote that is contrary to the genuine wishes of the farm owner. The gravity of this issue was heightened by the fact that the election will be conducted via a secret ballot process designed to ensure confidentiality and protect the voter’s choice. The secrecy while essential for democratic integrity also raises questions about accountability and trust when someone else is given the authority to vote on behalf of another. As such, it was strongly recommended that the power attorney not to be utilized for voting on behalf of registered farmers residing overseas. Instead, these individuals should be encouraged to return to Fiji to participate in the voting process.

Other submission questioned the validity of power of attorney for voting, as it can be revoked at any time, and suggests establishing clear guidelines on its scope, such as voting rights and representation. In this regard it was suggested that Power of Attorney must include a certificate from the deeds office confirming the active status of power of attorney ensuring that there is no ambiguity about its validity at the time of voting.

Term of Office of elected Councillors

Most submissions suggest extending the election cycle from three to four years to reduce administration costs associated with the electoral process. This adjustment would also provide councilors with a more extended period to effectively conduct work and implement policies without the frequent interruptions that come with shorter election cycles. There was also suggestion in favor of maintaining the current three-year election period emphasizing that the government has already committed to allocating a budget that supports this timeline.

On the other hand, a number of submitters suggested for a two-year term of office arguing that this shorter duration could enhance accountability as it would allow constituents to assess the performance of elected councilors. Furthermore, there were recommendations for establishing clear provisions in the Bill that would facilitate the removal or replacement of any elected councilor who fails to fulfil their duties adequately.

In terms of remuneration, one submitter proposed that an independent body should be responsible for determining the allowances and salaries of council members. This approach would help eliminate potential conflicts of interest and ensure that compensation is fair and transparent. Additionally, with respect to clause 54 of the Principal Act, there is a pressing need for councilors to submit the annual reports and financial accounts in a timely manner. To strengthen the credibility of these reports it was recommended that higher standards be set for auditors ensuring that the financial activities of Council are subject to thorough oversight and accountability.

Appointment of Board Chair and Vice Chairperson and the Chief Executive Officer of Growers Council

It was proposed that there be clear and comprehensive regulations governing the appointment of the Chairperson and Vice Chairperson of the Board. This suggestion aims to establish structured framework that minimizes the potential for conflict within the leadership. With regards to section 48 of the Principal Act, it is essential that the Chief Executive Officer (CEO) maintains a position of independence ensuring that this pivotal role is filled by a candidate chosen exclusively by the Board itself rather than being influenced by external entities or pressures. The significance of this independence cannot be overstated as it directly impacts the overall integrity and effectiveness of the Sugar Industry.

In addition, a submitter has put forth the suggestion that key players within the industry should be represented on the board thereby enhancing its composition with individuals who possess relevant experience and insights. This inclusion is intended to create a more balanced and informed decision-making body. Another noteworthy suggestion involved changing the terminology from 'Directors' to 'Board Members'. This is particularly relevant considering that the Council is not established as a company which typically entails certain liabilities for directors under other existing laws. There was a debate on whether government representatives, like the Permanent Secretary, should join the board due to funding. Other submitters opposed to the proposal, fearing it could affect governance and international certifications like Fair Trade. It was suggested that there be government representation in the council if funding continues and removing these representatives, if government decides to halt its provision of grant.

Other Aspect of the Bill

There were concerns raised that if the Bill passed it would create certain impediment irrespective of the established councilors. It was suggested that the rules guided by the proposed Bill should be flexible so that farmers do not experience any communication hindrances to raise or seek audience directly with minister. There were other issues relating to cane production on the non-renewal of leases by landowners, which hinders farmers from producing and contributing to the economy. With respect to other market opportunity for sugar, it was proposed transitioning from raw sugar to natural sugarcane syrup that provides market value higher than the production of sugar per tonne. It was

noted that a pilot exercise has been conducted on a small-scale to certain local hotels and food outlet and has shown high demand. The transition will utilize waste from sugar cane fields that focus on harvesting uncollected post-harvest cane.

3.5 Comparison of Foreign Jurisdiction

Australia

Growers in Australia are represented by organizations like **CANEGROWERS**, which operates as a democratic institution. Members elect representatives to advocate for their interests, particularly in pricing negotiations and policy advocacy. Funding primarily comes from grower levies, supplemented by government grants for specific programs. This democratic model ensures that growers have a direct voice in decision-making. <https://www.canegrowers.com.au/>

India

India has a robust system where sugar mills are often run as cooperatives. Growers are members of these cooperatives and elect boards to manage the operations. This democratic process enables direct grower participation in decision-making. Additionally, government agencies and policies, such as the Fair and Remunerative Price system, regulate the industry to ensure grower welfare. Funding for these cooperatives is largely self-generated, with some state support for specific initiatives like ethanol blending. <https://www.indiansugar.com/> <https://coopsugar.org/> <https://sugarcane.dac.gov.in/>

Brazil

In Brazil, the industry is heavily integrated with biofuel production, and grower representation varies. Many growers are part of cooperatives or trade associations that advocate for their interests. These organizations are funded through member contributions and government programs like "Plano Safra," which offers subsidized credit for agricultural investments. While grower input is significant, much of the policy direction, especially related to biofuels, comes from government initiatives. <https://unica.com.br/en/> <https://www.orplana.com.br/en/>

Mauritius

Mauritius features an organized structure where growers are represented through organizations like the Mauritius Sugar Syndicate and various smallholder associations. These groups are often involved in decision-making and negotiations. Representation is both democratic, through elected leaders, and government-influenced, with policy frameworks supporting the industry. Funding is derived from cane sales, government subsidies, and global trade initiatives. <https://mauritiussugar.mu/>

In summary, while all these countries emphasize grower representation, the mechanisms differ. Countries like India and Australia lean more heavily on democratic processes, while Brazil incorporates a mix of cooperative representation and government programs. Mauritius blends democratic and government-led approaches. These systems underline the importance of balancing grower interests with the broader economic and policy objectives of the sugar industry.

3.6 Sustainable Development Goals Impact Analysis

Consideration was placed on the SDG 5 which focuses on gender equality and empower all women and girls¹.

SDG 5.1.1 *“Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life”*.

The Committee noted that the Bill allows for equal opportunity for farmers to be elected on the Council and the Board of the Sugar Cane Growers Council irrespective of gender.

Furthermore, it was noted that currently 14% of the total registered cane farmers are female. This statistic highlights the potential for creating an equitable platform for female farmers to actively participate in leadership roles and represent their respective sectors and district if they decide to stand for election. The Bill promotes gender equality by guaranteeing that women can also participate in decision-making processes. This provides diverse representation in the Council and would address priority needs of all cane farmers.

In this regard, the Committee following its review of the Bill, fulfilled its obligation as prescribed under Section 110(2) of the Standing Orders of Parliament.

¹ [THE 17 GOALS | Sustainable Development \(un.org\)](https://www.un.org/sustainabledevelopment/)

3.7 Outcome of Review

The pertinent issues identified during the review were discussed at length by the Members of the Committee and considered with the assistance of the drafting team, so as to ensure that all these relevant issues were appropriately addressed. The following key provisions were amended as follows.

1. **“Short title and Commencement”**: Clause 1 is amended by deleting ‘2024’ and inserting ‘2025’ to be read as follows-

“This Act may be cited as the Sugar Industry (Amendment) Act 2025.”.

2. (i). **Clause 34 “Right to vote at election”**: Clause 34(4) is amended by defining ‘*unsound mind*’ in reference to the 2013 Constitution and shall be read as follows-

“A registered grower who, is adjudged or declared to be of unsound mind by a court of law, is not eligible to vote in an election conducted under this Part”.

The Committee observed that the Bill currently lacks a clear definition for the term “*unsound mind*” which is essential for determining the criteria by which an individual may be classified under such a designation. This absence of definition raises concerns about potential ambiguities in its application which could lead to inconsistent interpretations in legal contexts. Consequently, the Committee believes it is imperative to establish a precise definition to ensure clarity and consistency. The Committee suggests that the definition should be derived from section 55(3)(b) of the 2013 Constitution which would provide a solid foundation for understanding and applying the concept of unsound mind within the legal framework thereby promoting fairness and transparency in the evaluation of individuals mental fitness.

- (ii). **Clause 34(5)(6) and (8)**: The provision is amended by separating ‘*Proxy*’ from ‘*Power of Attorney*’. The new sub-clauses shall be read as follows-

“(5) A registered grower who is eligible to vote at an election may appoint another person who manages the registered grower’s farm under an instrument of proxy or power of attorney, to vote at the election on behalf of the registered grower.”.

“(6) In this section –

(a) an instrument of proxy must be in the form and contain such particulars as the Tribunal may determine; and

(b) a power of attorney must –

(i) be accompanied by a certificate issued by the Registrar of Titles certifying that the power of attorney has not been revoked or cancelled; and

(ii) specify the manner in which the appointed person must vote in an election and the appointed person must vote in accordance with the directions provided in the power of attorney.

(7) Any question as to the right of a registered grower to vote at an election under this Part and any other question arising in connection with the election must be determined by the Tribunal.

(8) Sub-clause deleted”.

The Committee is of the opinion that these are two distinct documents that requires separate interpretations when it comes to voting. It is crucial to recognize that the importance of clarity in this matter, and if sub-clause 8 of the Bill were to convey the ‘*Proxy Instrument*’ and ‘*Power of Attorney*’ the same meaning it would inadvertently create an opportunity for any holder to engage in activities that have not been duly approved by the issuer. This could lead to significant complications including the potential misuse of an instrument without the necessary and appropriate documentation. It was further noted that such scenarios could undermine the integrity of the entire process and lead to unintended consequences that could affect all stakeholders involved. The Committee recommends that the two terms be distinctly defined in sub-clause 6 to ensure clarity in references.

(iii). Clause 34A “Candidate eligibility”: Clause 34A is amended to insert a new provision in sub clause 1(b) and sub-clause 4 to be read as follows-

“34A.—(1) A person is eligible to contest an election if the person—

- (a) is a registered grower;*
- (b) is an eligible grower;*
- (c) has produced an annual cane amount;*
- (d) is not an elected representative of any cane producers’ association;*
and
- (e) is of sound mind.*

(4) In this section -

- (a) “eligible grower” means an active registered grower who is domiciled in Fiji for at least 2 years immediately before his or her nomination; and*
- (b) a person is concerned to be of sound mind if he or she-*
 - (i) has the mental capacity to understand his or her decisions regarding participation in an election under this Part; and*
 - (ii) is not adjudged or declared to be of unsound mind.”.*

The Committee noted that any registered grower is entitled to stand for council election irrespective whether the person is domiciled in Fiji and is an active producer. The definition of ‘*registered grower*’ allows for any farmer who is registered under the Sugar

Industry Tribunal to stand for Council elections. Therefore, it was suggested that there be a new definition of “*eligible grower*” to provide a clear demarcation that would not only enhance the candidate eligibility but also ensure that farmers with appropriate background and expertise are adequately represented within both the Council and the Board. This proposal reflects a commitment for a more inclusive and representative governance structure that will eventually benefit the sugarcane growers. Furthermore, the Committee resolved to revise the eligibility criteria for contesting elections and amended clause 34A(1)(c) by removing the requirement of producing an annual amount of cane as prescribed by regulations. The Committee suggests that an individual must only demonstrate ability to produce any amount of cane to qualify for candidacy. This would specifically mean that a person will be deemed eligible if he or she provides evidence of cane production without the required tonnage as prescribed by regulation. The Committee is of the view that this change would promote fairness and inclusivity in the electoral process, which ensures that all individuals that put an effort to produce cane have equal opportunity to participate in the democratic process.

On the aspect of residency, the Committee noted that one of the fundamental criteria for eligibility to participate in Council election is that an individual must reside in Fiji for a minimum period of two years. This stipulation is particularly important as it aims to encourage connection between candidates and local community. Therefore, if a registered grower who currently resides abroad wishes to run for election would need to return to Fiji and fulfill this required duration of residency. The Committee believes that this would ensure that prospective candidates are not only familiar with the local agriculture landscape but also actively involved in the daily operations and challenges of cane production from their farms. The purpose of this residency requirement is to guarantee that those seeking leadership roles in the Council have genuine commitment to the sugarcane farming community and can contribute meaningfully to the sector’s development. Henceforth, with respect to “*sound mind*”, the Committee suggests that the term be clearly defined in the Bill to ensure clarity and understanding. The Committee is of the view that the definition would provide guidance on the criteria and methods used to determine whether an individual qualifies as possessing a “*sound mind*” which would ensure that all parties involved in the determination of such cases would have a consistent understanding of this legal concept.

3. **Clause 35 “General election”:** Clause 35 (2) of the Bill is amended and shall be read as follows-

“(2) A general elections must be held every 4 years”

The Committee is of the view that it would be both practical and beneficial to allow elected councilors a substantial timeframe of four years to effectively execute the anticipated plan. The suggested extended period not only provides the councilors with the necessary time to implement their initiatives but also serves to avoid significant expenses associated with holding elections every three years.

4. (i) **Clause 37 “Filling of Vacancies in the Council”**: The Bill is amended to delete clause 37(1) and substituted with the following –

“37.- (1) Where there is a vacancy in the Council and subject to subsection (2) -

(a) the Tribunal must award the position to the person from the same sector who-

(i) is the next highest-ranked candidate in that sector from the most recent general election;

(ii) is the highest-ranked out of those candidates of that sector who did not get elected to Council; and

(iii) is still available to serve at the time of the vacancy (as may be determined by a written law governing elections); or

(b) where the next highest-ranked candidate declines to assume the position, a new election must be conducted within 60 days to fill the position.”.

- (ii) **Clause 38 “Supervision of Election”**: The Bill is amended to delete clause 38(4) and insert the following new sub-clauses-

“(4) Where the Tribunal makes a declaration that the election of a person at a general election is invalid –

(c) the Tribunal must award the position to the person from the same sector who-

(iv) is the next highest-ranked candidate in that sector from the most recent general election;

(v) is the highest-ranked out of those candidates of that sector who did not get elected to Council; and

(vi) is still available to serve at the time of the vacancy (as may be determined by a written law governing elections); or

(d) where the next highest-ranked candidate declines to assume the position, a new election must be conducted within 60 days to fill the position.”.

The Committee believes that clause 37 and clause 38 should be amended to include a provision for awarding the position to the next highest candidate if a vacancy arises. This change would ensure that there is a clear alternative for the subsequent next highest ranked candidates to fill in vacancies within the Council or the Board. Additionally, in a case that the next highest ranked candidate is not interested to assume office, the committee suggests that an election should be held. The two-tier approach in the provision offers flexibility and would reduce costs associated with running elections for every vacancy within the Sugar Industry.

5. **Clause 38 “Supervising of Election”**: Clause 38(1)(2) and (3) shall be amended by deleting- *“or any independent body appointed by the Minister”* wherever it appears thereafter.

The Committee is of the view that it would be prudent for the Independent Commissioner to serve as the responsible officer tasked with overseeing the general election of councilors. This stems from the belief that an independent body should ideally be led by someone who is appointed externally by the Minister. However, the Committee recognizes that opting to engage such external appointment could lead to unnecessary cost which is something the Committee aims to avoid. By entrusting this critical responsibility to the Independent Commissioner, the Committee seeks to ensure a more efficient and cost-effective process while maintaining the integrity and independence for the election of councilors.

6. **Clause 39 (2) “Determination of question of membership”:** Clause 39(2) is amended by deleting “*not exceeding 3 years*” and substituting with “*not exceeding 4 years*”. The Clause shall be in consistent with the suggested amendment to Clause 35 of the Bill.

7. **Section 48 (Principal Act):** Section 48 of the Principal Act is amended by deleting subsection 1 and substituting the following –

“There shall be a Chief Executive of the Council, who shall be appointed by the Board and who shall perform such functions assigned to him or her by the Council.”

The Committee noted that Section 48 of the Sugar Industry Act 1984 was amended in the 2015 Sugar Industry Amendment Act. In this amendment, the term “*Board of Directors*” was removed and replaced with the term “*Council*”. This change implies that the Chief Executive of the Council is appointed by the Council itself. The Committee raised concerns about this amendment given that election of a Chief Executive by 38-member Council could prove to be inefficient in situations where reaching consensus would be unattainable. In contrast, the previous structure allowed for a more streamlined election process as a smaller Board of 8 Members could facilitate quicker decision-making and more effective governance. Given these considerations, the Committee is of the opinion that Section 48(1) of the Principal Act should be reinstated to ensure a more efficient appointment process. The Committee further believes that restoring the Board as the governing body responsible for electing the Chief Executive of the Council will not only enhance the overall function of the organization but also improve accountability and leadership effectiveness. Therefore, the Committee strongly recommends that the “*Board*” should retain its role in electing the Chief Executive that will support efficient operations in the Sugar Industry.

5.0 APPRECIATION

The Committee acknowledges all those that had provided great support to the Committee during the review of the Bill. First and foremost, the Committee acknowledges all the members of the public and entities for their invaluable contribution, which assisted the Committee in the review.

Secondly, the Parliament of the Republic of Fiji for realising the importance of public participation in the legislative making process, thus having confidence in the Committee to conduct public consultation. The Committee also acknowledges the Speaker of the Parliament, for providing the Committee ample sitting days to carry out the review on the Bill and the Secretary-General to Parliament for supporting the Committee during the review period.

The Committee would also like to acknowledge the Parliament IT and Media Team for its support, which enabled the Committee to do awareness of the review and broadcast its public consultation meetings via the digital platform.

5.1 CONCLUSION

As highlighted above in its deliberations, the Committee has conducted extensive public consultations and consulted independent legal experts in the Solicitor-General's Office for the purpose of improving the current draft Bill.


At the conclusion of the review, the Committee believes that the proposed amendments are adequate for achieving the objectives of the Sugar Industry Act 1984.

The Committee through this report commends the *Sugar Industry Amendment Bill (Bill No. 23 of 2024)* to the Parliament.


MEMBERS SIGNATURE



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HON. RATU RAKUITA VAKALALABURE



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HON. ILIESA VANAWALU



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HON. LENORA QEREQERETABUA



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HON. JONE USAMATE



.....
HON. FAIYAZ KOYA

Date: 11/03/25.....
