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**FIJI LAW SOCIETY**

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**ELECTORAL ACT AMENDMENT BILL NO. 49 of 2022 (“Bill No. 49”)**

1. The Fiji Law Society is deeply concerned about the proposed amendments to the Electoral Act in Bill No. 49 currently before Parliament. This Bill appears likely to be passed into law under urgency. The Society’s particular concern is that the Bill unnecessarily attacks citizens’ rights to privacy, including legal professional privilege.
2. The amendment would give to the Supervisor of Elections power to compel any person to provide to him all or any information or documents on virtually any pretext. Citizens must hand over information “notwithstanding the provisions of any other written law on confidentiality, privilege or secrecy”.
3. The proposed changes are inconsistent with the international core values and principles to which Fiji has committed itself, including long established legal principles on legal professional privilege. They erode civil rights protections long protected by the law.
4. The proposed amendments unnecessarily extend the powers of the Supervisor beyond those necessary to fulfil his duties and powers under the Electoral Act. They encroach on and duplicate powers of investigation that are already vested in the FICAC. If the Supervisor reasonably suspects that an offence has been committed under the Electoral Act, he can - as he has done many times already - report the matter to FICAC which will then exercise its powers of investigation.
5. The attack on legal professional privilege is particularly serious. The reason the privilege exists is to enable people to take legal advice on any action they wish to take (or not to take) in the knowledge that in doing so they have protection. The privilege means that no one in authority can use their questions, or the advice they receive, as evidence against them of some improper or unlawful intent. If this privilege is taken away, people cannot take advice on their legal rights and cannot exercise them to the fullest extent and may end up breaching laws. Encouraging compliance with the law is the practice of democratic countries which support the rule of law.
6. The Society is also very concerned that the Bill also provides no protections or safeguards for the information the Supervisor obtains in terms of how it will be used or kept. The Supervisor is not required to maintain confidentiality or secrecy in relation to the information and it appears such information can be used for any purpose the Supervisor chooses.
7. There is no right of appeal against a decision of the Supervisor other than to the Fiji Electoral Commission which is final and cannot be further appealed to or reviewed by any court.
8. The Fiji Law Society calls upon the government of Fiji to withdraw Bill No.49 from Parliament so that adequate time can be given to consider all of its legal and civil rights ramifications.

William Wylie Clarke  
**PRESIDENT**  
**FIJI LAW SOCIETY**  
**30 August 2022**