



Constitutional Matters

Monthly Legal News Bulletin

2 July 2010

Introduction

The purpose of this periodical newsletter is to improve access to justice and enhance the rule of law by keeping people informed of changes under new Decrees, judicial news and other significant legal developments in Fiji.

For further information on any of the issues covered in this newsletter, please contact CCF at ccf@kidanet.net.fj.

Public Emergency Regulations

Pursuant to the Public Safety Act, on Tuesday 15 June 2010, the *Extension of the Public Emergency Regulations 2009* was gazetted.

The *Public Emergency Regulations 2009* has been extended for a further period of 30 days with effect from 1200 hours on 27 June 2010.

New Decrees

The following new decrees have been promulgated or published since our last issue:-

- *Litter (Amendment) Decree 2010 (Decree No. 21 of 2010)*
- *Momi Bay Development Decree 2010 (Decree No. 28 of 2010)*
- *Media Industry Development Decree 2010 (Decree No. 29 of 2010)*

The *Litter (Amendment) Decree 2010 (Decree No. 21 of 2010)* amends the Litter Promulgation 2008. The Decree contains minor amendments wherein new definitions have been added and older definitions have been deleted and substituted with new definitions. A new section has also been inserted stating that litter officers now have the power to require instant community service in

or around a place if a person wilfully or intentionally is found littering in a public place.

The *Momi Bay Development Decree 2010 (Decree No. 28 of 2010)* was promulgated with the object of protecting the funds advanced to the Developers of Momi Bay by FNPF and to expedite foreclosure applications. The validity, legality or propriety of the Decree cannot be challenged, nor any decision of any Minister or any State official or body made under the Decree. The Decree also states that no person shall be entitled to bring any proceedings in any court or other such body to seek any relief against FNPF or the FDB and that any action pending shall immediately terminate.

The *Media Industry Development Decree 2010 (Decree No. 29 of 2010)* establishes two bodies, namely a Media Tribunal and a Media Authority, which amongst other things, will determine such things as what is fair, balanced, and quality journalism. The Decree sets out media codes and content regulation that all media organizations are now bound by.

The definition of Media organizations has also been addressed in the Decree and now also includes organizations other than radio and newspaper companies, and extends to all organizations that disseminate information, news, opinions, entertainment, advertisements and similar items. There is however an exemption provision, whereby on application the Minister may exempt an organization if the Minister is satisfied that the organization is engaged in any non profit or charitable purpose.

The Decree requires that ownership of media companies needs to be owned in majority (90%) by local shareholders and any company that currently has more than 10% ownership



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vested in non-residents must be sold to local shareholding within 3 months.

The Decree also provides for the requirement of media organizations registration and sets out the relevant process for same.

Other News:

More Decrees approved by cabinet this week (28 June – 2 July)

Four more Decrees have this week been approved by the cabinet. At the time of writing this newsletter the copies of these four Decrees had not come to hand and CCF will provide more detail on each once the Decrees are in hand.

The following information has been provided in the local media in respect of the four new Decrees.

The *Regulation of Surfing Areas Decree 2010* is aimed at liberalizing access to any surfing area in Fiji and thereby enhancing Fiji's image as a premier surf travel destination. Further, all interest in any surfing area in Fiji has been vested in the Director of Lands, for and on behalf of the State. The Decree also expressly permits unrestricted access to, and use of, any surfing area without the need to obtain approval or paying any monies or compensation.

The *Native Land Trust (Amendment) Decree 2010* and the *Fijian Affairs (Amendment) Decree 2010* were also approved this week by the cabinet. While not much is known on the latter Decree, the former Decree repeals and replaces section 3(1) of the Native Land Trust Act thereby changing the membership of the NLTB Board, and making the Minister the Chairman of the Board. Unlike the NLT Act, the Decree gives power to the Minister rather

than the President to set aside land as native reserves.

The *Compulsory Registration of Customers for Telephone Services Decree 2010* has also been approved by cabinet in an effort to protect people from the many threats and crimes that can be initiated or facilitated through the use of phones such as threatening phone calls, bomb threats and impersonation, according to the Attorney General. The Decree requires all current users to register their details with a telephone service provider within a month from the enactment of the Decree. Telephone services are to be disconnected and fines may be imposed for non adherence.

The *Land Use Decree 2010* has also been approved by Cabinet this week. It is said that the Decree will establish a Land Unit within the Ministry of Lands and Survey, and that this Land Use Unit will issue leases for a period of not more than 99 years. The Decree will provide for the leasing of native land to the State and the State to lease it under a Head Lease. The Decree will also provide for the leasing of available crown land.

Chief Registrar/Chief Magistrate Positions

Fiji's President Ratu Epeli Nailatikau has appointed resident magistrate Ganga Wakishta Arachchi as acting chief registrar of the High Court, to replace Major Ana Rokomokoti who vacated the office last week, and is said to have returned to camp. The appointment was made under the Administration of Justice Decree.

The President has also appointed resident magistrate Pamila Ratnayake as acting chief magistrate. Both the appointments are effective from Monday, June 28, 2010.



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Village By-Laws

The village by-laws consultations continue in the country with recommendations being compiled for consideration by the government.

In recent news the Ministry of Fijian Affairs has confirmed that once the recommendations have been compiled, stakeholders, civil societies, businesses and more importantly NGOs will be consulted before the draft is finalized.

This process is expected to start soon as deadlines for recommendations and submissions from villages is said to have come to an end.