



Constitutional Matters

Monthly Legal News Bulletin

November 2009

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@connect.com.fj.

New Decrees

The following decrees were promulgated in November:-

- Regulation of the National Spectrum Decree 2009 (No. 48, 13 Nov);
- Daylight Saving (Amendment) Decree 2009 (No. 47, 13 Nov);
- Reserve Bank of Fiji Act (Amendment) Decree (11 Nov);
- Capital Markets Decree 2009 (11 Nov);
- Crimes Decree 2009 (10 Nov);
- Criminal Procedure Decree 2009 (10 Nov); and
- Sentencing and Penalties Decree 2009 (10 Nov).

The later 3 Decrees have been passed by Cabinet (according to government press releases) but have not yet been gazetted.

Regulation of the National Spectrum Decree 2009

This Decree converts all existing radio and TV broadcasting licences to temporary licences, pending approval by the Minister for Communications (which is held by the Interim Attorney-General).

Existing licence users must disclose such information as requested by the Minister. The Minister may allocate and reallocate spectrum, band, frequency or microwave links for radio, television, telecommunications broadcast or other services on such terms and conditions as the Minister may deem just and fair in the national interest.

The Minister may designate the Telecommunications Authority of Fiji (TAF - an independent statutory body) to monitor compliance with the Decree (s8).

No decision or action by the Minister, the ministry or the TAF may be challenged in a court, tribunal or commission (s11).

Previously, under the Telecommunications Promulgation 2008, the TAF had the authority to issue spectrum licences.

Daylight Saving (Amendment) Decree 2009

The Daylight Savings Act 1998 is amended so that daylight savings takes effect from October to April (rather than November to February).

Pursuant to this, the Minister for Labour, Industrial Relations and Employment, Mr Filipe Bole made the Daylight Saving Order and declared that the daylight saving period will be from 29 November 2009 until 25 April 2010.

Reserve Bank of Fiji Act (Amendment) Decree

This decree expands the purpose of the Reserve Bank to include regulating the insurance industry, capital markets and the securities industry (consistently with the Capital Markets Decree 2009).

Capital Markets Decree 2009

This Decree repeals the *Capital Markets Development Authority Act 1996* and transfers



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all administration, functions and responsibilities of the Capital Markets Development Authority to the Board of the Reserve Bank of Fiji. This means the Reserve Bank of Fiji is now the regulatory authority for capital markets and the securities industry.

The penalties for breaching security laws have not changed.

Judicial News

In November 2009 there were 5 new appointments to the judiciary (3 Magistrates and 2 High Court judges). The new appointees are:-

- Mr Yohan Fernando, High Court Judge, sworn in on 5 November 2009;
- Mr Kiliritige Fernando, High Court Judge, sworn in on 5 November 2009;
- Mr Rajasinghe, Magistrate, sworn in on 5 November 2009;
- Mr Wimalasena, Magistrate, sworn in on 5 November 2009; and
- Mr Wickaramasooriya, Magistrate, sworn in on 5 November 2009.

The above judges are Sri Lankan nationals.

There are currently 18 Magistrates and 11 High Court Judges in Fiji. Prior to 10 April 2009, there were 15 High Court Judges and 20 Magistrates.