



# Constitutional Matters

Monthly Legal News Bulletin

5 February 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@connect.com.fj](mailto:ccf@connect.com.fj).

## New Decrees

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

- Regulation of Pensions and Retirement Allowances Decree 2009 (no. 56), 31 December 2009;
- Wreck & Salvage (Budget Amendment) Decree 2010 (No.5), 6 January 2010;
- Value Added Tax (Budget Amendment) Decree 2010 (No. 6), 6 January 2010;
- Excise (Budget Amendment) Decree 2010 (No. 7), 6 January 2010;
- Income Tax (Budget Amendment) Decree 2010 (No.8), 6 January 2010;
- Customs Act (Budget Amendment) Decree 2010 (No. 9), 6 January 2010;
- Customs Tariff (Budget Amendment) Decree (No. 10), 6 January 2010; and
- Administration of Justice (Amendment) (No.3) Decree 2010 (as announced by government Press Release dated 2 February 2010)\*.

The *Regulation of Pensions and Retirement Allowances Decree 2009* allows the Prime Minister to terminate the pensions of retired Judges, Parliamentarians, Prime Ministers and some other public servants if they have at any time acted or attempted to:-

- Bring hatred, contempt or disaffection against the Government of the Republic of Fiji;
- Undermine or prejudice the orderly functioning of government;
- Promote or incite feelings of ill will or hostility amongst different classes of the population;
- Undermine or bring hatred, contempt or disaffection against the administration of justice or the judiciary; or
- Incite communal antagonism or racial discontent or disaffection.

Before terminating a pension under this Decree, the Prime Minister must write to the person and invite them to show cause why their pension should not be terminated. The PM may still suspend a pension at any time, and a decision by the PM cannot be challenged in a court.

The *Wreck & Salvage (Budget Amendment) Decree 2010* increases penalties for offences under the Wreck & Salvage Act from \$200 to \$10,000. The Comptroller may also hold the directors, partner and shareholders of a Company personally liable for any duty payable under the Act. Any refunds by the Comptroller must be paid into a bank account in Fiji.

The *Value Added Tax (Budget Amendment) Decree 2010* increases the turnover threshold for registration from \$50,000. Every registered person below this threshold must submit their final VAT returns for 2009 by 30<sup>th</sup> June 2010.

The *Excise (Budget Amendment) Decree 2010*, the *Customs Act (Budget Amendment) Decree 2010*, and the *Customs Tariff (Budget Amendment) Decree* all provide for an



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increase in penalties and fines by up to 10 times the previous amount. Penalties which previously carried fines of \$1,000 now attract a \$10,000 fine.

The *Income Tax (Budget Amendment) Decree 2010* contains some minor amendments for certain taxable incomes (such as non-resident dividend withholding tax, royalty withholding tax, and non-taxable incomes).

The *Administration of Justice (Amendment) (No. 3) Decree* allegedly provides that all decisions of government or any government entity relating to the restructure, terms and conditions of employment, or remuneration of public servants cannot be challenged.

\*These Decrees have not been officially published or distributed and are therefore not yet publicly available.

### **Judicial News**

On 28 January 2010, FBCL Radio reported that 2 more Sri Lankan judges were sworn in as judicial officers in Fiji. Their names were not given and it was not specified whether they have been appointed as Magistrates or High Court Judges. There is no official press release from the Fiji Interim Government website on this.