



Constitutional Matters

Monthly Legal News Bulletin

1 October 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 Friday 17 September 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 22 September 2010.

New Decrees

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

- *Media Industry Development (Amendment) Decree 2010 (Decree No. 43 of 2010)*
- *Child Welfare Decree 2010 (Decree No. 44 of 2010)*
- *Quarantine (Amendment) Decree 2010 (Decree No. 45 of 2010)*
- *National and Trade Measurement (Amendment) Decree 2010 (Decree No. 46 of 2010)*
- *Trade Standards and Quality Control (Amendment) Decree 2010 (Decree No. 47 of 2010)*

- *Consumer Credit (Amendment) Decree 2010 (Decree No. 48 of 2010)*
- *Commerce Commission Decree 2010 (Decree No. 49 of 2010).*

The *Media Industry Development (Amendment) Decree 2010 (Decree No. 43 of 2010)* was gazetted in two parts, both as Decree No. 43 of 2010. The first part of the Decree amends section 86 of the *Media Industry development Decree* by adding a further subsection (2) that states that the Minister acting on the advice of the AG, may exempt any person organization class of persons or class of organization by notice in the Gazette. The second part of the Decree 43 goes on to then publishing by way of such gazetted notice the classes of person and organizations declared exempt under section 86 of the *Media Industry Development Decree*, which includes any business designated as being in respect of which a licence is required under section 4 of the Business Licensing Act (Cap 204) except for the following businesses; journalists (freelance included), printer, publisher, radio station, television station, and studio, video and cinematograph films; any State or Governmental entity or statutory body, any educational facility that is registered under the Education Act (Cap 262) or the Higher Education Promulgation 2008; and Any organization referred to in Section 6 of the Diplomatic Privileges and Immunities Act (Cap 8).

The *Child Welfare Decree 2010 (Decree No. 44 of 2010)*, promotes and protects the health and welfare of children through mandatory reporting of cases of possible, likely or actual harm in relation to events discovered by a professional to be affecting the health and welfare of children, emphasises the duty of care of the professional in handling cases of



Constitutional Matters

Monthly Legal News Bulletin

1 October 2010

possible child abuse and outlining the reporting requirements of such cases in their care and protects the confidentiality and integrity of cases and of the professionals handling the cases.

Some of the important definitions within this Decree includes, a "child", meaning a person below the age of 18 years and a "professional", meaning a health professional as defined in the *Medical and Dental Practitioner Decree 2010*, a welfare officer as defined in the *Juveniles Act (Cap 56)*, a Police Officer as defined in the *Police Act (Cap 85)* or a legal practitioner as defined in the *Legal Practitioners Decree 2009*.

Pursuant to the Decree it shall now be a Professional's duty to report on child abuse or suspicion of same. The Decree goes on further to state that any Professional that fails to report commits an offence and is liable to a fine not exceeding \$5000.

The *Quarantine (Amendment) Decree 2010 (Decree No. 45 of 2010)*, amends section 9 of the Quarantine Act (Cap 112) by inserting a new subsection (3) after subsection (2), which states that any sum of money owed to the Authority must be paid by the respective agents of the vessels or the aircraft within 31 days and that any failure will incur a fine of \$500.

The *National and Trade Measurement (Amendment) Decree 2010 (Decree No. 46 of 2010)*, amends the National and Trade Measurement Decree by inserting new interpretations as well as removing several words and replacing with other definitions. The main amendment is to several paragraphs where the word "Chief Inspector" is removed and replaced with the word "Director".

The *Trade Standards and Quality Control (Amendment) Decree 2010 (Decree No. 47 of 2010)*, has similar amendments per the above and made to the *Trade Standards and Quality Control Decree 1991* where the word "Inspector" is deleted and substituted with a new definition put in place of the previously defined word for "Inspector".

The *Consumer Credit (Amendment) Decree 2010 (Decree No. 48 of 2010)*, amends the *Consumer Credit Act* of Fiji. Definition of "Director" has deleted and now refers to the Director of Trade and Measurement and Standards. Also the word "Inspector" is substituted with the word "Director" (several other similar minor amendments are made).

The Fair Trading and Consumer Affairs shall now be referred to as the National and Trade Measurement Office. All references to the Fair Trading and Consumer Affairs in the Act have now been deleted. The Decree also specifies the powers of Inspectors and its authority.

The *Commerce Commission Decree 2010 (Decree No. 49 of 2010)*, has the objective of promoting the interests of the Consumers, promoting effective and efficient development of industry, trade or commerce, promoting effective competition in industry, trade or commerce and to ensure equitable returns for businesses with fair and reasonable prices charged to consumers.

The Decree establishes the Commerce Commission of Fiji, which is well known to regulating competition in Fiji. The Decree also deals with such matters as access agreements, arbitration of disputes regarding access agreements, control of prices, telecommunications services, fixing and declaring prices, and provisions relating to process for goods and services. It further deals with restrictive trade practices,



Constitutional Matters

Monthly Legal News Bulletin

1 October 2010

consumer protection and unfair practices, and contains enforcements and remedies.