



Constitutional Matters

Monthly Legal News Bulletin

6 August 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 Monday 19 July 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 26 July 2010.

New Decrees

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

- *2010 Appropriation (Amendment) Decree 2010 (Decree No. 30 of 2010)*
- *Fijian Affairs (Amendment) Decree 2010 (Decree No. 31 of 2010)*
- *Native Land Trust (Amendment) Decree 2010 (Decree No.32 of 2010)*
- *Telecommunications (Amendment) Decree 2010 (Decree No. 33 of 2010)*
- *Compulsory Registration of Customers for Telephone Services Decree 2010 (Decree No. 34 of 2010)*
- *Regulation of Surfing Areas Decree 2010 (Decree No. 35 of 2010)*
- *Land Use Decree 2010 (Decree No. 36 of 2010)*

- *Airport Departure Tax (Revised Budget Amendment) Decree 2010 (Decree No. 37 of 2010)*
- *Customs Tariff (Revised Budget Amendment) Decree 2010 (Decree No. 38 of 2010)*
- *Mining (Amendment) Decree 2010 (Decree No. 39 of 2010)*

The *2010 Appropriation (Amendment) Decree 2010 (Decree No. 30 of 2010)* appropriates a sum of **\$1,470,776,009** (One Billion, Four Hundred and Seventy Million, Seven Hundred and Seventy Six Thousand and Nine Dollars), to be issued from the Consolidated Fund or other funds of the State, for the ordinary services of Government for the year ending 31 December 2010. The said sum is to be appropriated for the purposes specific in Schedule 1 and 2 of the Decree (Ministries/Departments inclusive of the Office of the President, Prime Minister, Attorney General and other Ministries) and also the 2010 Revised Budget Estimates.

The Decree, further states, that the Government borrowing for 2010 shall not exceed the sum of **\$497,455,669** and that the Finance Minister may only borrow on behalf of the State for specific purposes.

The *Fijian Affairs (Amendment) Decree 2010 (Decree No. 31 of 2010)* amends the *Fijian Affairs Act* ("Act") by deleting the word "Fijian" wherever it appears and replacing it with "I Taukei". The Decree further states that all written laws, including any Act, Proclamation, Promulgation, Decrees and any subsidiary legislation and all State documents, of any nature whatsoever are amended by deleting the word "Fijian" wherever it appears and wherever it currently refers to indigenous



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Fijians, and replacing it with "I Taukei", unless the context otherwise requires.

The *Native Land Trust (Amendment) Decree 2010 (Decree No.32 of 2010)* amends section 3 of the Native Land Trust Act ("Act") by repealing subsection (1) of the Act, which establishes the Board of Trustees (called the Native Land Trust Board). The Board pursuant to the Decree shall now consist of the Minister as Chairman, 5 members all of whom must be members of I-Taukei land owning units, 3 members appointed by the Minister on the recommendation of the I-Taukei Affairs Board and 2 other members appointed by the Minister.

The Decree also amends section 18 of the Act by deleting the word "President" wherever it appears and replacing with "Minister".

The *Telecommunications (Amendment) Decree 2010 (Decree No. 33 of 2010)* amends the Telecommunications Promulgations 2008 by deleting the whole of subsection (1) and substituting with the words "A member of the Board may be appointed for a term not exceeding 3 years and may be re-appointed for such further term or terms as the Minister may see fit".

The *Compulsory Registration of Customers for Telephone Services Decree 2010 (Decree No. 34 of 2010)* requires all telephone numbers issued by a service provider to a customer on or by the commencement date to be registered by the relevant service provider within one month from the commencement of the Decree. Any numbers not registered shall be suspended and service providers shall be liable on conviction to a maximum fine of \$200,000.

The *Regulation of Surfing Areas Decree 2010 (Decree No. 35 of 2010)* amongst other things,

promotes Fiji as a premier surf travel destination, to liberalize access to any surfing area in Fiji for the purposes of tourism and recreation, to enable unrestricted access to any surfing area by all persons including tourists hotels and businesses engaged in providing and promoting surfing or any water sport.

The Decree provides for the cancellation of any lease, licence or any other instrument of title in relation to any surfing area, provides for any interest in any surfing area to be absolutely vested in the Director of Lands for and on behalf of the State and allowing for unrestricted access and use of any surfing area by an person.

The *Land Use Decree 2010 (Decree No. 36 of 2010)* has the object of utilizing designated native land in a manner that is in the best interest of native land owners and utilizing designated crown land with a view to achieving optimal return to the State.

The Decree provides for the establishment of a Land Use Unit, which shall be responsible for valuation of land, issuance and renewal of leases, collection of rental and such other similar matters.

The *Airport Departure Tax (Revised Budget Amendment) Decree 2010 (Decree No. 37 of 2010)* amends the Airport Departure Tax Act by increasing the departure tax from \$75 to \$100.

The *Customs Tariff (Revised Budget Amendment) Decree 2010 (Decree No. 38 of 2010)* amends the Customs Tariff Act 1986 by deleting the duty rates and substituting with new duty rates. Duty rates previously 5% have been increased to 15%, while duty rates previously 32% and 15% have been decreased to 15% and 5%, respectively.



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The *Mining (Amendment) Decree 2010* (Decree No. 39 of 2010) amends Part II of the Mining Act to enable the granting of special prospecting licences in respect of the seabed and for that purpose to provide a grid system for such prospecting purposes.

Other News:

The *Fiji Independent Commission Against Corruption* ("FICAC") deputy Commissioner Colonel George Langman will soon be posted back to the Military Forces to facilitate rural development works. Attorney General, Aiyaz Sayed-Khaiyum has confirmed that Colonel Langman will leave FICAC as soon as they have a credible replacement identified and nominated by the President of Fiji.

2 *New Magistrates from Sri Lanka* were sworn in at the Government House on 4 August 2010 taking the number of Sri Lankans on the judicial bench to 13.