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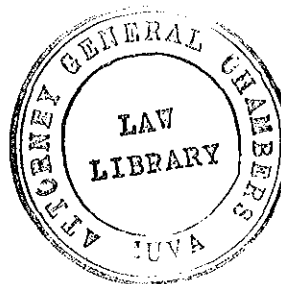
GOVERNMENT OF FIJI
 (DECREE NO. 47 OF 2010)

TRADE STANDARDS AND QUALITY CONTROL (AMENDMENT) DECREE 2010

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TRADE STANDARDS AND QUALITY CONTROL (AMENDMENT) DECREE 2010
 (DECREE NO. 47 OF 2010)

IN exercise of the powers vested in me as President of the Republic of Fiji and the Commander in Chief of the Republic of Fiji Military Forces by virtue of the Executive Authority Decree 2009, I hereby make the following Decree -

A DECREE TO AMEND THE TRADE STANDARDS QUALITY CONTROL DECREE 1991

Short Title and Commencement

- 1.—(1) This Decree may be cited as the Trade Standards and Quality Control (Amendment) Decree 2010.
- (2) This Decree shall come into force on the same day as the Commerce Commission Decree 2010 comes into force.
- (3) The Trade Standards and Quality Control Decree 1991 is referred to as “the Decree”.

Section 4 Amended

2. Section 4 of the Decree is amended by deleting the definition of “inspector” in subsection (1) and substituting—

"Inspector" means—

- (a) an Inspector appointed for the purpose of this Decree;
- (b) the Director, Principal Inspector and an Inspector appointed within the meaning of section 5 of the National & Trade Measurement Decree No. 14 of 1989 and;
- (c) includes any other officers appointed as inspectors for the purposes of this Decree".

Section 13 Amended

3. Section 13 of the Decree is amended by inserting new sub sections 13A – 13E—

"Inquiries and Investigations

13A.—(1) The Minister may direct the Council to conduct investigations and or inquiries as to—

- (a) whether the supply of any goods or services or goods or services of a particular class should be prohibited; or
- (b) whether authorized goods and services are subject to conditions or restrictions on—
 - (i) the grounds that they are likely to cause the death of a person or to injure a person; or
 - (ii) to adversely affect a person's health or well being
- (c) the investigation of any trade practice or act which appears to be unfair or uncompetitive.

(2) For the purposes of conducting any such investigation, the Council may hold such inquiry, either in public or in camera, as it thinks fit.

(3) At any inquiry the Council may require any person appearing as a witness either to be examined on oath, and administer an oath accordingly, or to make and subscribe a declaration of the truth of the matter respecting which he is examined.

(4) If any person who is to give evidence at any such inquiry held in public so requests at the hearing, or by a notice in writing served on the Chairman before the date of the hearing, the public may at the discretion of the Chairman be excluded from the hearing while that person gives his evidence.

(5) Any person required to give evidence under this section or in the opinion of the Council having an interest in the subject matter of an inquiry may be permitted to be represented at the inquiry by a legal practitioner or other person of his own choice.

(6) A person who refuses or wilfully neglects to attend in obedience to a summons issued under this section or to give evidence as required by such a summons shall be guilty of an offence.

(7) For the purposes of any investigation or inquiry the Council may—

- (a) inspect, examine, audit and copy any books, accounts or documents;
- (b) require any person to produce any books, accounts or documents in his possession or under his control; and
- (c) require any person to furnish any information or particulars that may be required by the Committee and any copies of or extracts from any books, accounts or documents.

(8) No information furnished or obtained by the Council in pursuant to this section shall be disclosed to any other person unless the person providing the information has prior to such proposed disclosure consented in writing to such disclosure.

Provided that nothing shall prohibit the disclosure under section 18 of the Commerce Commission Decree 2010.

(9) No person shall be compelled, in complying with any requirement of this section, to answer any question or furnish any information if to do so might incriminate that person.

Council to Report to Minister

13B.—(1) The Chairman shall, on reference of any matter to it by the Minister, conduct inquiry in respect of that matter and make recommendations in a written report to the Minister.

(2) Where one or more members of the council disagrees with the recommendations of the Chairman, this fact, and the reasons, if any, for the disagreement shall be included in the report to the Minister.

(3) Any report or recommendation made to the Minister shall be confidential and shall not, except with the consent of the Minister be disclosed or made available to any person.

Factors to be considered by Council

13C.—The Council shall in considering any matter—

- (a) take into account any representations made to it by any person who has an interest in the matter; and
- (b) conduct such other investigations as it considers necessary to enable it to make a recommendation with respect to the matter.

Orders to discontinue Trade Practice

13D. When the Minister has received a report from the Chairman in accordance with the provisions of section 13B and the Minister is of the opinion that the continuance or repetition of any trade practice or act mentioned in the report would be contrary to the provisions of this Decree he may make an order:—

- (a) directing the discontinuance or prohibiting the repetition of the practice or act: or
- (b) permitting the continuance or repetition of the practice or act subject to such conditions as may be specified in such order; or
- (c) directing the discontinuance or prohibiting the repetition of the practice or act and directing (in either case) that, in order to remedy in whole or in part the consequences of the practice or act, the person carrying on the practice or act shall revert in whole or in part to the trading conditions, including prices, existing before the practice or act was commenced or was last carried out, or shall otherwise adopt such trading conditions as shall prevent the continuance of such practice or act.

Penalty for non compliance with Order

13E. Any person who fails to comply with or contravenes an order under section 19 of the Decree shall be guilty of an offence; and the court may, in addition to the penalty prescribed for such offence by this Decree, order the payment to any aggrieved person of the damage or loss sustained by that other person as a result of the commission of such offence”

Section 14 Amended

4. Section 14 of the Decree is amended by deleting the words “Chief Inspector” from subsection (1) and (2) and substituting “Director” respectively.

Section 15 Amended

5. Section 15 of the Decree is amended by deleting the words “ Chief Inspector” in subsection (1) and substituting “Director”;

Section 17 Amended

6. Section 17 sub subsection (1) of the Decree is amended by inserting new sub sections 1A and (1B) after subsection (1)—

“(1A) Subject to section 50 (1A), an inspector shall have the power to issue notices to a person or body corporate requiring the person or body corporate to make payment within a maximum of 21 days for a breach of the Decree”

“(1B) An inspector or an authorized officer appointed under this Decree may, although he is not a barrister and solicitor, institute, conduct or defend before a court any charge, information, complaint or other proceeding arising under this Decree or any regulations or orders made there under”.

Section 21 Amended

7. Section 21 of the Decree is amended by deleting the words “Chief Inspector” wherever it appears and substituting “Director”.

Section 23 Amended

8. Section 23 sub sections (1) and (2) is amended by deleting the words “Chief Inspector” and substituting “Director”.

Section 24 Amended

9. Section 24 is amended by deleting the words “Chief Inspector” and substituting “Director”.

Section 35 Amended

10. Section 35 sub section (5) is amended by deleting the words “Chief Inspector” and substituting “Director”.

Section 42 Amended

11. Section 42 sub sections (1) and (2) is amended by deleting the words “Chief Inspector” and substituting “Director”.

Section 45 Amended

12. Section 45 sub section (2) is amended by deleting the words “Chief Inspector” and substituting “Director”.

Section 50 Amended

13. Section 50 is amended by inserting new subsections (1A) and (1B) after subsection (1)—

“(1A) Subject to subsection (1), any person found to have contravened a provision of this Decree may be fined on the spot for a maximum penalty of \$500 for an individual and \$2000 for a body corporate;

(1B) A person who fails to pay the fine within 21 days of notification by an inspector, shall be guilty of an offence”.

Given under my hand this 10th day of September 2010.

EPELI NAILATIKAU
President of the Republic of Fiji