

EXTRAORDINARY



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GOVERNMENT OF FIJI

CHARITABLE TRUSTS (AMENDMENT) DECREE 2013
(DECREE NO. 28 OF 2013)

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

TO AMEND THE CHARITABLE TRUSTS ACT (CAP. 67)

Short title and commencement

1.—(1) This Decree may be cited as the Charitable Trusts (Amendment) Decree 2013, and shall come into force on the date of its publication in the *Gazette*.

(2) The Charitable Trusts Act (Cap. 67) shall be referred to as the "Act".

New section inserted

2. The Act is amended by inserting the following new section after section 13A—

"Dissolution of board of trustees and other office holders

13B.—(1) Notwithstanding anything contained in section 13, the Minister may, by notice in writing, revoke the appointments of the board of trustees, board members, or other office bearers of any charitable trust which is established with or is provided with Government funding and assistance (whether fully or partially), if the Minister is satisfied that the charitable trust—

- (a) is not functioning or has become dissolved;
- (b) is not, by reason of the state of its affairs, able to function properly; or
- (c) is failing to achieve its objects or is acting contrary to its objects.

(2) If the Minister makes a decision under subsection (1), the Minister shall appoint an interim board of trustees for the charitable trust who shall hold office and perform all the functions and exercise all the powers of trustees and office bearers of the charitable trust until the next annual general meeting, which shall be called at such a time as determined by the interim board of trustees.

(3) At the annual general meeting called by the interim board of trustees, the election of the new board of trustees and board members or other office bearers (as the case may be) shall be held in accordance with the constitution of the charitable trust.

(4) Any decision made by the Minister under this section shall not be challenged in any court of law or tribunal.

(5) Where any proceeding, claim, challenge, application or dispute of any form whatsoever is brought before any court, tribunal, commission or any other adjudicating body to challenge the decision of the Minister under this section, then the presiding judicial officer, without hearing or in any way determining the proceeding or the application, shall immediately transfer the proceeding or the application to the Chief Registrar of the High Court for the termination of the proceeding or the application, and a certificate to that effect shall be issued by the Chief Registrar of the High Court.

(6) A certificate under subsection (5) is, for the purposes of any proceedings in a court, tribunal, commission or any other person or body exercising a judicial function, conclusive of the matters stated in the certificate.

(7) A decision of the Chief Registrar of the High Court to issue a certificate under subsection (5) is not subject to challenge in any court, tribunal, commission or any other adjudicating body.”

New section inserted

3. The Act is amended by inserting the following new section after section 29—

“Annual return to be made by charitable trusts

29A.—(1) Every charitable trust shall, once at least in every year, make to the Registrar a return containing the names and addresses of all the trustees, board members and office bearers of the charitable trust and a copy of the audited annual accounts of the charitable trust.

(2) Where a charitable trust fails to make a return as required under subsection (1), the Registrar shall cancel the incorporation of the charitable trust, unless the Registrar is satisfied that there are good reasons for the failure to make a return.”

GIVEN under my hand this 17th day of October 2013.

EPELI NAILATIKAU
President of the Republic of Fiji