



[766]

GAMING DECREE 2009

[DECREE NO. 34]

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GOVERNMENT OF FIJI

GAMING DECREE 2009
(DECREE NO. 34)

A DECREE TO REFORM THE LAW RELATING TO GAMING

IN exercise of the powers vested in me as Vice-President of the Republic of Fiji by virtue of the Office of the Vice-President and Succession Decree 2009 I hereby make the following Decree—

Part 1—PRELIMINARY

Short title

1. This Decree may be cited as the Gaming Decree 2009.

Repeal of existing enactments

2. The Gaming Act (Cap. 273) and all subsidiary legislation made thereunder are hereby repealed.

Interpretation

- 3.—(1) In this Decree, unless the context otherwise requires—
 - “approved form” means a form approved by the Minister and prescribed in regulations;
 - “casino” means any premises, or part of any premises, where any casino game is played;
 - “casino game” means any game of chance which involves staking against a bank and in which a roulette wheel, dice or cards are used, directly or indirectly, and includes a gaming machine;
 - “charitable purpose” has the same meaning as in the Charitable Trusts Act (Cap. 67);
 - “Class 1 gaming” and “Class 2 gaming” have the meanings assigned to them by section 8;
 - “Divisional Commissioner” has the meaning assigned by section 10(1);
 - “game of chance” includes a lottery and a game of chance and skill combined and a pretended game of chance or chance and skill combined, but does not include any athletic game or sport;
 - “gaming” means the playing of a game of chance for money or money’s worth, including—
 - (a) a lottery;
 - (b) remote interactive gaming,

but does not include, unless otherwise provided by regulations, the playing of a game which depends merely on skill, any race, match or competition which consists exclusively or mainly in a contest or trial of one or more of the following, or any combination of them, namely skill, knowledge, memory, speed endurance, strength or otherwise, or any similar trial, contest or competition, whether involving people or other animate creatures, or both, and whether or not inanimate aids are adopted, or any game exempted by the Minister, absolutely or conditionally, from the provisions of this Decree by order in the Gazette;

“gaming machine” means a machine within the meaning of section 5(1);

“illegal lottery” means a lottery which—

- (a) is prohibited by this Decree; or
- (b) is conducted or proposed or attempted to be conducted without a licence without being exempted by or under this Decree from the need to be licensed; or
- (c) is an overseas lottery and is not authorised under the law of the country or territory in which it is held and drawn;

“implements or appliances for gaming” include all articles which are used in, or for the purpose of gaming;

“licensee” means a person duly licensed under this Decree to conduct any form of gaming;

“licensing authority” means, in the case of a Class 1 gaming licence, the appropriate Divisional Commissioner or the Solicitor General, as provided in any particular case in accordance with section 10(1), and in the case of a Class 2 gaming licence, the Attorney General;

“lottery” includes any game, method or device whereby money or money’s worth is distributed or allotted in any manner depending on, or to be determined by, chance or lot, or the result of any race or contest;

“lottery ticket” and “ticket” includes any paper, figure, writing, symbol or other article which either expressly or tacitly entitles the holder or any other person to receive any money or money’s worth on the happening of any event or contingency connected with any lottery, and “ticket lottery” shall be construed accordingly;

“Minister” means the Attorney General;

“overseas lottery” means a lottery which is held in, and promoted, organised or controlled from, a country or territory outside Fiji and is lawfully authorised and conducted under the laws of that country or territory;

“place” means any house, office, room or building, and any place or spot whether open or enclosed, and includes a ship, boat or other vessel, whether afloat or not, and any vehicle;

“public place” includes any public way and any building, place or conveyance to which for the time being the public are entitled or permitted to have access, either without any condition or upon condition of making any payment, and any building or place which is for the time being used for any public or religious meeting or assembly or as an open place;

“remote interactive gaming” means gaming in which persons participate by the use of remote communication;

“remote communication” means communication using—

- (a) internet;
- (b) radio;
- (c) telephone, including text messaging by telephone;
- (d) television; or
- (e) any other kind of electronic or other technology for facilitating communication at a distance.

(2) A public place shall be deemed to be used for a purpose within the provisions of this Decree if it is used for that purpose even on one occasion only, provided that a place other than a public place shall not be deemed to be used for gaming unless it is used, or intended to be used for that purpose habitually, whether at regular or irregular intervals.

Part 2—PROHIBITIONS AND EXEMPTIONS

Gaming prohibited

4. Gaming is prohibited and is illegal unless—
- (a) it is exempted under section 6 or 7 of this Decree;
 - (b) it consists of a game which is either generally or specifically exempted by the Minister by order in the Gazette; or
 - (c) authorised and licensed under this Decree and otherwise complies with the provisions of this Decree and any regulations made under it

Prohibition of particular games

- 5.—(1) The purchase, possession or use for the purpose of gaming of any machine which—
- (a) is constructed or adapted for playing a game of chance by means of the machine; and
 - (b) has a slot or other aperture for the insertion of money or money’s worth in the form of cash or tokens,

is prohibited, save that the purchase, possession or use of a vending machine which dispenses lottery tickets upon insertion of money or money’s worth in the form of cash or tokens is permitted.

(2) The game known as “crown and anchor” or any variety of such a game by whatsoever name it is called is prohibited.

(3) Save as provided in subsection (4), the establishment and operation of a casino and the playing of casino games through any medium is prohibited.

(4) The licensing authority may, upon consideration of an application in writing and subject to the provisions of Part 3, grant a Class 1 gaming licence authorising a person to conduct the playing of casino games provided the following conditions are satisfied—

- (a) the applicant is a registered charitable organisation under the Charitable Trusts Act (Cap. 67);
- (b) all the proceeds from the playing of the casino games are devoted to such charitable purposes as are specified in the licence;
- (c) the casino games will be played only at or during an event or function held at a single venue as specified in the licence;

Exemption relating to games of chance

6.—(1) Subject to sections 5 and 8 and subsection (2), a game of chance is exempt from the provisions of the Decree provided that—

- (a) it is not held or played in a public place;
- (b) the total value of the prizes in that game of chance does not exceed \$100; and
- (c) no tickets or other means of participation are offered to the public.

(2) A lottery which is not exempt under subsection (1) is only lawful provided it is conducted under a licence granted under Part 3 and in accordance with the provisions of Part 4 or Part 6.

Exemption relating to poke board

7. No licence shall be required in respect of the playing of the game of chance generally known as “poke board” where, by pushing out from perforations in a board numbered tickets, prizes in money or money’s worth may be won, if such game is played by members or their bona fide guests in a registered club or mess or canteen established by the Fiji Military Forces or the Commissioner of Police.

Part 3—LICENSING OF GAMING ACTIVITIES

Classification of gaming activities for licensing purposes

8.—(1) For the purposes of licensing under this Decree gaming activities shall be divided into two categories respectively called “Class 1 gaming” and “Class 2 gaming”.

- (2) “Class 1 gaming” is a gaming activity which satisfies the following conditions, namely—
- (a) it is neither prohibited by this Decree nor exempt from a requirement to be licensed under this Decree;
 - (b) it is conducted solely for a charitable purpose;
 - (c) it is conducted at or in respect of a specified event or function;
 - (d) the gaming satisfies any rules applicable to a particular form of gaming as may be prescribed in regulations;
- (3) “Class 2 gaming” is a gaming activity which satisfies the following conditions, namely—
- (a) it is neither prohibited by this Decree nor exempt from a requirement to be licensed under this Decree;
 - (b) it is not conducted for a charitable purpose;
 - (c) the gaming satisfies any rules applicable to a particular form of gaming as may be prescribed in regulations;
 - (d) the gaming does not utilise or involve, directly or indirectly, a gaming machine or other means of gaming which is prohibited under this Decree.

Gaming without a licence unlawful

9.—(1) It shall not be lawful to carry on any gaming activity in Fiji, other than one which is exempt by virtue of paragraph (a) or (b) of section 4, except under the authority of a licence granted under this Part.

(2) In the case of an overseas lottery to which Part 6 applies any person who carries on business as the principal agent in Fiji of an overseas lottery must hold a relevant licence granted under this Part.

Application for and issue of Class 1 gaming licence

10.—(1) The licensing authority for the grant of Class 1 gaming licence shall be—

- (a) where the total value of the prizes offered or awarded to the winners exceeds \$100 but does not exceed \$5,000, the Divisional Commissioner responsible for the administrative division of Fiji in which it is proposed to conduct the gaming activity for which the licence is sought; and
- (b) where the total value of the prizes offered or awarded to the winners exceeds \$5,000, the Solicitor General.

(2) An application for a Class 1 gaming licence must be made to the appropriate licensing authority on the approved form and must be accompanied by the prescribed fee.

(3) If the licensing authority is satisfied that an application for a Class 1 gaming licence satisfies the conditions prescribed by section 8(2) for the grant of such a licence, including, in the case of an application for a licence to play casino games, the conditions prescribed by section 5(4), and that the application complies with all other requirements imposed by this Decree and as may be prescribed by regulations, the licensing authority shall grant the applicant a licence.

(4) The licensing authority must specify the event and the dates for which the licence is to be valid.

(5) The licensing authority may attach to a licence granted under subsection (3) such conditions as the licensing authority thinks fit.

Application for and issue of Class 2 gaming licence

11.—(1) The licensing authority for Class 2 gaming licences shall be the Attorney General.

(2) An application for a Class 2 gaming licence must be made to the Attorney General on the approved form and must be accompanied by the prescribed fee.

(3) If the Attorney General is satisfied that an application for a Class 2 gaming licence satisfies the conditions prescribed by section 8(3) for the grant of such a licence, and that the application complies with all other requirements imposed by this Decree and as may be prescribed by regulations, the Attorney General shall grant the applicant a licence.

(4) The Attorney General must specify the period for which the licence is to be valid.

(5) The Attorney General shall attach to a licence a condition specifying to whom, and in what proportions, as the Attorney General deems appropriate, the proceeds of the gaming activity authorised by the licence shall be distributed.

(6) Without prejudice to subsections (4) and (5), the Attorney General may attach to the licence such other conditions as the Attorney General thinks fit.

Part 4—TICKET LOTTERIES

Application of Part 4

12. The provisions of this Part apply only to ticket lotteries which are not overseas lotteries.

Licensing of ticket lotteries

13.—(1) A ticket lottery may qualify for either a Class 1 or a Class 2 gaming licence.

(2) A Class 2 gaming licence for a ticket lottery shall be valid for such period not exceeding 15 years as the licensing authority may decide.

(3) Where a licence for a ticket lottery is granted to a natural person, that person must not be a person under the age of 21 years.

General requirements as to lottery tickets

14.—(1) Every ticket in a ticket lottery must bear an identifying mark, letter or number whereby each ticket may be separately identified from every other ticket and must have a butt or counterfoil relating to each ticket which bears the same identifying mark, letter or number as that ticket.

(2) When a lottery ticket is sold, the seller must enter the name of the buyer, or if the ticket is bought by a syndicate, the name of the syndicate, together with the address or telephone number of the buyer or syndicate, on the butt or counterfoil relating to the ticket.

(3) Such number of samples of the tickets to be used in a lottery as the licensing authority may require must be deposited with the licensing authority by the licensee of the lottery not more than 7 days after the printing of the tickets has been completed and not less than 7 days before any ticket is sold.

(4) No ticket in a ticket lottery may be transferred by the holder to any other person, and every ticket issued in a ticket lottery must be marked with the words in bold type "NOT TRANSFERABLE".

Record to be kept of tickets issued

15. Any person, whether the licensee or an intermediary, who supplies another person with tickets in a ticket lottery for the purposes of selling them must record in duplicate at the time of supply the full name and address of the person to whom the tickets are supplied and the identifying marks, letters or numbers relating to the tickets, and, if the supplier is a person other than the licensee, the supplier shall forward to the licensee a complete copy of the particulars so recorded.

Age limit on ticket sellers

16. No lottery ticket shall be sold by any person who is under the age of 18 years.

Tickets not to be sent unsolicited through the post

17. Tickets in a ticket lottery shall not be sent unsolicited through the post.

Final date for selling tickets

18.—(1) An applicant for a licence under Part 3 for a ticket lottery must specify in the application—

- (a) the date on which the draw is to take place; or
- (b) specify the date not later than which the draw will take place,

which dates shall be subject to the approval of the licensing authority.

(2) Upon application by the licensee the licensing authority may permit an extension of the date, or latest date, it had originally approved for the drawing of a lottery.

Names of winners to be notified

19. The promoter of a ticket lottery must, as soon as possible after the draw, determination or event by which the prize winners have been ascertained, and in any event not later than 7 days thereafter, publish by advertisement in a newspaper published in Fiji and circulating in the area in which the draw has taken place, a list of all prize winners.

Draws to be open to the public

20.—(1) Subject to subsection (2), the drawing of every ticket lottery shall be open to the public.

(2) Where the drawing of a ticket lottery is broadcast in the form of a television programme the drawing need not be open to the public.

(3) The time and place, or in the case of a drawing which is to be broadcast on television, the time of the broadcast and the identity of the broadcasting station, must be published by advertisement in a newspaper published in Fiji and circulating in the area in which the draw is to take place.

Licensee responsible for loss of tickets and for unaccounted tickets

21.—(1) The licensee shall—

- (i) keep a register of all persons to whom tickets have been issued for sale and shall be responsible for all tickets which are lost or unaccounted for;
- (ii) open a lottery bank account into which all proceeds from the sale of lottery tickets must be paid;
- (iii) observe all other requirements in respect of lost or unaccounted tickets as may be prescribed in regulations.

(2) After the draw has taken place, the licensee must pay into the lottery bank account a sum of money equivalent to the sale value of all tickets which are lost or unaccounted for immediately after the draw has taken place, unless the reason for the non-inclusion of those tickets in the draw is explained to the satisfaction of the auditor and to the licensing authority.

(3) Where under Part 7 of this Decree an auditor is required to provide an audit report in respect of a lottery, the auditor must endorse on the report a statement as to whether the non-inclusion of any tickets which were lost or unaccounted for was satisfactorily explained.

(4) The licensing authority, after consultation with the auditor and taking into consideration any explanation offered by the licensee for the non-inclusion of any tickets in the draw, may order that all or part of the sum paid into the lottery bank account under subsection (2) be reimbursed to the licensee.

(5) An auditor's report must record any payment made into the lottery bank account by a licensee under subsection (2) and the amount, if any, of any reimbursement ordered under subsection (4).

(6) If the licensing authority declines to order any reimbursement under subsection (4), the auditor's report must record the reason therefor.

Non-participating tickets

22.—(1) The identifying marks, letters or numbers of any tickets which have not participated in a draw by which the prize winners in a lottery are ascertained must be advertised by the licensee in at least one newspaper published in Fiji and circulating in the area in which the draw has taken place.

(2) Where a ticket does not participate in a draw by reason of the fact that the licensee was not notified of the sale of a ticket before the draw took place, the licensee, upon being requested within one month of the date of the draw by the lawful purchaser of the ticket, shall, within one month of receiving the request, return the full price of the ticket to that person and upon so doing record his or her full name and address.

Buying, etc., tickets in illegal lottery an offence

23.—(1) Any person who either personally or by an agent pays or deposits any money or money's worth as a stake with any person for or in respect of any event or contingency connected with an illegal lottery, or buys a ticket in such lottery, shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and imprisonment for 2 years.

(2) A person who is found in possession of a ticket for an illegal lottery shall be presumed, unless the contrary is proved, to have bought that ticket.

Money paid recoverable

24. Any money or money's worth paid for or in respect of the purchase of a ticket in an illegal lottery shall be recoverable as money had and received to or for the use of the person from whom the same was received.

Selling, etc., illegal lottery tickets an offence

25.—(1) Any person selling, offering for sale, giving, delivering, collecting or otherwise dealing in illegal lottery tickets or found in possession of 10 or more illegal lottery tickets or counterfoils or duplicates of illegal lottery tickets or of any stakes or wagers in or relating to an illegal lottery, or otherwise assisting in the conduct of an illegal lottery then in progress shall be guilty of an offence and liable on conviction to a fine of \$10,000 and imprisonment for 5 years.

(2) In respect of an offence under subsection (1) the onus is on the defendant to show on a balance of probabilities that he or she was not knowingly involved or assisting in the conduct of an illegal lottery.

Sales of tickets in illegal lottery void

26. Every sale or contract for sale of a ticket in an illegal lottery is hereby declared to be void and no action shall be maintainable by any person in respect of any such sale or contract except by the purchaser for the return of the money or other consideration, if any, paid thereon.

Part 5—REMOTE INTERACTIVE GAMING*Permitted forms of remote interactive gaming*

27. Remote interactive gaming may be permitted under this Decree only if it is played on the following platforms, namely—

- (a) the telephone;
- (b) radio;
- (c) television,

and by means of or through such other media of communication as may be prescribed in regulations, save that in no circumstances may any such platform or other medium be employed in conjunction with the internet.

Licensing of remote interactive gaming

28. Notwithstanding anything in section 8, no person shall conduct remote interactive gaming except under a Class 2 gaming licence granted under Part 3 and in accordance with the requirements of this Part and such other requirements as may be prescribed in regulations.

Offences connected with unlicensed remote interactive gaming

29.—(1) Any person who operates a business which conducts an unlicensed remote interactive gaming operation shall be guilty of an offence and liable on conviction to a fine of \$10,000 and imprisonment for 5 years and where the offender is a body corporate it shall be liable to such fine for each day on which the commission of the offence continues.

(2) Any person who assists in or otherwise facilitates the conduct of a remote interactive gaming operation which is unlicensed shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and imprisonment for 2 years.

(3) It shall be a defence for a person charged with an offence under subsection (2) to prove that he did not know and had no reason to believe that the remote interactive gaming operation to which the charge relates was unlicensed.

(4) Any person who engages in unlicensed remote interactive gaming as a player shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and imprisonment for 2 years.

Part 6—OVERSEAS LOTTERIES*Licensing of overseas lotteries*

30.—(1) No person shall carry on business as the principal agent in Fiji of an overseas lottery except under a Class 2 gaming licence granted under Part 3 and in accordance with the requirements of this Part and such other requirements as may be prescribed in regulations.

(2) An applicant for a licence to carry on business as the principal agent of an overseas lottery must provide—

- (a) the addresses of any branch offices through which the applicant, as principal agent, intends to carry on the business of the lottery;
- (b) the names of any independent sub-agents franchised by the principal agent through which the applicant intends to carry on the business of the lottery; and
- (c) the addresses at and from which such sub-agents will carry on any business of the lottery.

(3) A licence for an overseas lottery shall specify the address of the licensee and the address of every premises, including any branch offices of the licensee, at and from which the licensee and all sub-agents authorised by the licence to act on behalf of the lottery may carry on the business of the lottery.

(4) Any changes in the identities of the authorised sub-agents or of the addresses of the premises, including branch offices, at and from which the licensee and those sub-agents are authorised to carry on the business of the lottery, must be submitted by the licensee to the licensing authority together with the licence and, if such changes are approved by the licensing authority, shall be endorsed on the licence.

Conditions to be attached to overseas lottery licence

31. In addition to any conditions which the licensing authority must or may attach to the licence under Part 3, a licence granted in respect of an overseas lottery shall be subject to the following conditions—

- (a) an agent acting for the lottery, whether the licensee or a sub-agent, may only conduct the business of the lottery on and from premises specified in the licence, save that such business may be carried on from those premises by post or telephone;
- (b) the premises, including those of any authorised sub-agent, at which the business of an agency is authorised to be carried on, and the books and documents kept in connection with the conduct of the agency, shall be open to inspection during normal office hours by any person authorised in that behalf by the licensing authority.

Prohibition of advertising of overseas lotteries

32.—(1) No agent for an overseas lottery, including the licensee and any authorised sub-agent, shall cause or permit to be published or otherwise disseminated through any medium of communication whatsoever any advertisement which advertises or promotes the agency, the fact that it conducts an overseas lottery or any particular lottery which it conducts, except to the extent that any such advertising is permitted by provision made in the licence and conforms with any regulations made in that regard.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of \$10,000 and imprisonment for 5 years, and where the offender is a body corporate it shall be liable to such fine for each day on which the commission of the offence continues.

Part 7—AUDIT

Audit of Class 1 gaming activities

33.—(1) In the case of a licence which is granted for a Class 1 gaming activity, the licensing authority, if it considers it desirable in the public interest or for the general regulation of gaming activities, may serve on the licensee a notice requiring the licensee as soon as practicable after the end of the financial year nominated in the notice to have the accounts, records and statements of the licensee's gaming activities pursuant to the licence for that financial year audited by an accountant registered under the Fiji Institute of Accountants Act (Cap 259).

- (2) The licensee shall promptly submit the audited accounts to the licensing authority.
- (3) The costs of conducting an audit required under subsection (1) shall fall on the licensee.

Audit of Class 2 gaming activities

34.—(1) In the case of a licence which is granted for a Class 2 gaming activity, the licensee must within 90 days after the end of each financial year submit to the licensing authority an audit prepared by an accountant registered

under the Fiji Institute of Accountants Act (Cap 259) of the licensee's gaming activities pursuant to the licence for that financial year.

- (2) The costs of conducting an audit required under subsection (1) shall fall on the licensee.

Licensing authority may call for further information

35.—(1) After receiving a copy of an audit report required under section 33 or section 34, the licensing authority may serve on the licensee a notice requiring the licensee to supply within such reasonable time as the notice stipulates further information about any matter relating to the gaming activities conducted pursuant to the licence whether or not mentioned in the audit report.

- (2) The further information which may be required under subsection (1) may include—
- (a) a statement of the amount raised by the sale of lottery tickets;
 - (b) a statement of the amount expended on expenses incurred in connection with the organisation and conduct of the gaming activity concerned;
 - (c) the amount of prize money paid out;
 - (d) a list of the names and addresses of prize winners;
 - (e) a statement of the amount devoted to charitable purposes and the identity of the charity or charities benefited;
 - (f) a certified bank statement recording all moneys received and all payments made in respect of or in connection with the gaming activity concerned;
 - (g) a list of all unsold lottery tickets;
 - (h) any other information which the licensing authority may require or as may be prescribed in regulations.

Powers of search and seizure

36. The licensing authority may authorise in writing any person or agency to enter and search at any time any premises where a gaming activity is or is suspected to be conducted and to seize, remove and detain any documents which relate to the conduct and finances of such gaming found therein.

Penalty for non-compliance

37. Failure to comply with any requirement imposed on a licensee by this Part is an offence which renders a licensee liable on conviction to a fine of \$20,000 and imprisonment for 8 years where the licensee is a natural person, and where the licensee is a corporate body to a fine of \$50,000 for each day during which the breach continues.

**Part 8—SUSPENSION, REVOCATION, FORFEITURE
AND AMENDMENT OF GAMING LICENCE**

Suspension of licence

38. If the licensing authority has reasonable grounds to suspect that a condition of a licence has been breached it may suspend the licence while it conducts an investigation into the matter.

Revocation of licence

39.—(1) Subject to this section and section 38, a licence may be revoked for breach of a condition of the licence.

(2) Where a licence has been suspended under section 38 and before any decision is taken to revoke the licence, the licensee must be informed in writing of the nature of the suspected breach and invite the licensee to make representations concerning it.

(3) If after considering the results of an investigation under section 38 and any representations from the licensee the licensing authority determines that there has been a breach of a condition of the licence it may revoke the licence.

Forfeiture of licence

40.—(1) Where a licensee is convicted of an offence under this Decree, the Court may order forfeiture of the licence.

(2) The licence shall cease to be valid from the date of making the forfeiture order.

Amendment of licensing conditions

41.—(1) The licensing authority may at any time during the currency of a licence require the licensee, by giving the licensee written notice thereof, to submit the licence for amendment of its conditions.

(2) A licensee must comply with a requirement under subsection (1) within 14 days from the date of the notice.

(3) Amendment of a licence under this section may involve amendment or removal of existing conditions or the addition of new conditions.

(4) Failure to comply with a notice to submit a licence for amendment is a ground upon which the licensing authority may consider suspending or revoking the licence in accordance with sections 38 and 39.

Part 9—POWERS OF SEARCH AND SEIZURE AND CONNECTED MATTERS*Search warrant for premises suspected of illegal gaming*

42.—(1) A magistrate or police officer of or above the rank of Assistant Superintendent, on being satisfied upon information and after any inquiry which the magistrate or officer may think necessary that there is good reason to believe that any place is kept or used for the purpose of conducting therein any gaming activity which is illegal under this Decree, may, by warrant, authorise any person named in the warrant or any police officer with such assistance and with such force as may be necessary, by night or by day, to enter such premises and search them and all persons found therein, and to seize all implements or appliances for use in gaming and all money, securities for money and other articles reasonably supposed to have been used or intended to be used in or for any illegal gaming activity which may be found therein or on such persons and to detain any such person until searched.

(2) Any person who in the course of a search of premises authorised and conducted in accordance with subsection (1) is found in possession of any implement, appliance or other article for use in illegal gaming shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and imprisonment for 5 years.

(3) Where a person is convicted of an offence under subsection (2) any implement, appliance or other article for use in illegal gaming, and any money or securities for money, which were found in the person's possession or at the premises where the person was found shall, if the Court is of opinion that that they were intended to be used for or in any illegal gaming, be ordered to be forfeited to the State.

Entry and search without a warrant

43.—(1) A police officer of or above the rank of Assistant Superintendent may personally do whatever a magistrate or such officer may by warrant authorise a police officer to do when competent to issue a warrant under section 42 and also in the following circumstances—

- (a) if the place proposed to be entered is occupied by a social club and the officer has reason to believe that illegal gaming is conducted there;
- (b) if the officer has personal knowledge of such facts and circumstances as to be satisfied that there are sufficient grounds for conducting a search under subsection (1) of section 42;
- (c) if the officer receives information orally, whether on oath or not, that any place is kept or used for the purpose of conducting therein any gaming activity which is illegal under this Decree under such circumstances that the object of the search would, in the opinion of the officer, be defeated by the delay which would result from reducing the information to writing, provided that the name and address of the person giving the information are known or ascertained by the officer before acting on the information.

(2) Any person who gives oral information for the purposes of paragraph (c) of subsection (1) which that person knows or believes to be false or does not believe to be true shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and imprisonment for 1 year.

Presumption against house and occupier respecting illegal gaming

44. If any implements or appliances for use in illegal gaming are found in any place entered under the powers conferred by section 42 or 43 or on any person found in such place, or if persons are seen or heard to escape therefrom on the approach or entry of a police officer of or above the rank of Assistant Superintendent, or if a police officer, or any other person having authority under this Decree to enter or go to such a place, is unlawfully prevented or obstructed from, or delayed in, entering or approaching such place or any part thereof, it shall be presumed in any proceedings for an offence under this Decree, unless the contrary is proved, that the place is kept or used for the purpose of conducting illegal gaming and that it is kept by or used by the occupier thereof for that purpose.

Destruction, etc., of contrivances connected with illegal gaming

45. Whenever it appears to a Court upon the trial of an offence under this Decree that the place in or in respect of which the offence is alleged to have been committed is kept or used for the purpose of conducting illegal gaming and that the place is equipped or provided with any of the means or contrivances which appear to the Court to have been specially erected or constructed for the purpose of facilitating the conduct of illegal gaming at or in that place, the Court shall order their destruction or removal, and may further order that any article so removed be forfeited to the State.

Part 10—MISCELLANEOUS MATTERS

Fees

46. The fees chargeable for any purpose for which this Decree provides that a fee may be charged shall be prescribed in regulations.

Certain uses of premises for gaming an offence

47.—(1) Any person who—

- (a) causes or permits any premises of which he is the owner, tenant, or of which he is otherwise for the time being the occupier, to be used—
 - (i) for the establishment or operation of a casino unless those premises are specified in a licence granted under Parts 2 and 3 as a place in which the playing of casino games is authorised but only in respect of such times as the licence permits;
 - (ii) for the provision of facilities for the playing of other games which are prohibited by this Decree;
 - (iii) for the provision of facilities for the unlicensed playing of games the playing of which requires a licence under this Decree;
 - (iv) for the provision and use of any gaming machine; and
- (b) is concerned in the management of any such premises,

shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 or imprisonment for 5 years.

(2) It shall be a defence for any person charged with an offence under subsection (1) to prove that he did not know, and had no reason to suspect, that the premises were being used for any of the activities referred to in paragraph (a) of that subsection.

Penalty for breach of licence condition

48. Any person who contravenes any condition attached to a licence granted under this Decree shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or imprisonment for 6 months.

Criminal liability of officers of a corporate body

49. Where an offence is committed by a body corporate under section 23, 25, 29(1), 29(2), 32, 37, 47 and 48 is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar

officer of the body corporate, or any person who was purporting to act in any such capacity, he or she as well as the body corporate shall be guilty of that offence, and shall be proceeded against and punished accordingly.

Regulations

50.—(1) The Minister may make regulations for giving effect to this Decree and for prescribing anything which by this Decree is to be prescribed.

(2) Without prejudice to the generality of subsection (1) regulations made under this section may provide for—

- (a) requirements to be satisfied in respect of a particular form of gaming;
- (b) requirements for the grant of a gaming licence;
- (c) special requirements relating to the grant of licences for remote interactive gaming and overseas lotteries;
- (d) the prescription of additional platforms or media of communication through which remote interactive gaming may be permitted;
- (e) conditions to be attached to a gaming licence;
- (f) the prescription of fees for any purpose for a which a fee may be charged under this Decree;
- (g) the prescription of forms for applying for gaming licences;
- (h) lost and unaccounted lottery tickets;
- (i) the regulation of permitted advertising of overseas lotteries;
- (j) requirements as to information to be provided by a licensee in connection with an audit report.

Given under my hand this 14th day of August 2009.

EPELI NAILATIKAU
Vice-President
of the Republic of Fiji