



REPUBLIC OF FIJI ISLANDS GOVERNMENT GAZETTE
PUBLISHED BY AUTHORITY OF THE FIJI GOVERNMENT

Vol. 11

MONDAY, 29th MARCH 2010

No. 36

[535]

LIMITATION OF LIABILITY FOR PRESCRIBED POLITICAL EVENTS DECREE 2010

GOVERNMENT OF FIJI
 (DECREE NO. 18 OF 2010)

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 the Fiji Military Forces by virtue of the Executive Authority Decree 2009, I hereby make the following decree—

Short title and commencement

1.—(1) This Decree may be cited as the Limitation of Liability for Prescribed Political Events Decree 2010.

(2) This Decree comes into force immediately upon its publication in the Gazette, and shall have full retrospective effect to the extent necessary to give effect to the provisions of this Decree.

Definition

2. In this Decree, unless the context otherwise requires—

“prescribed persons” shall include the following:

- (a) Ratu Josefa Iloilovatu Uluivuda;
- (b) Commodore Josaja Voreqe Bainimarama;
- (c) Jona Senilagakali, Caretaker Prime Minister; and
- (d) All officers and members of the Republic of Fiji Military Forces, but not including any officer or member found guilty by any court; tribunal or any other person or body exercising a judicial function, of any involvement in the purported civilian takeover of the Government on 19th May 2000 or in the attempted mutiny at the Republic of Fiji Military Forces barracks in or about November 2000;
- (e) All officers and members of the Fiji Police Force, but not including any officer or member found guilty by any court; tribunal or any other person or body exercising a judicial function, of any involvement in the purported civilian takeover of the Government on 19th May 2000 or in the attempted mutiny at the Republic of Fiji Military Forces barracks in or about November 2000;
- (f) All officers and members of the Fiji Prisons Service, but not including any officer or member found guilty by any court; tribunal or any other person or body exercising a judicial function, of any involvement in the purported civilian takeover of the Government on 19th May 2000 or in the attempted mutiny at the Republic of Fiji Military Forces barracks in or about November 2000; and
- (g) All other persons who acted under the directions, orders, instructions or command of any of the above persons, but not including any officer or member found guilty by any court; tribunal or any other person or body exercising a judicial function, of any involvement in the purported civilian takeover of the Government on 19th May 2000 or in the attempted mutiny at the Republic of Fiji Military Forces barracks in or about November 2000.

“prescribed political event” shall include the following:

- (a) the purported civilian takeover of the Government on 19th May 2000 and all related acts or omissions between 19th May 2000 to 29th May 2000, including the appointment of acting Prime Minister and proroguing of Parliament;
- (b) the taking of members of the elected Government, including the Prime Minister, as hostages on 19th May 2000, and all related acts or omissions between 19th May 2000 until the release of these hostages on 14th July 2000;

- (c) the abrogation of the Constitution Amendment Act 1997, the appointment of Interim Military Government on or about 29th May 2000, the establishment of an interim civilian Government on or about 4th July 2000, the transfer of executive authority on or about 9th July 2000, and all related acts or omissions between 29th May 2000 to September 2001.
- (d) the attempted act of mutiny at the Republic of Fiji Military Forces barracks in or about November 2000, and all related acts, incidents or omissions including any investigations, arrests in relation to the attempted mutiny and all acts carried out by a prescribed person which, in the judgment of the prescribed person, was necessary to establish or maintain peace, order and safety;
- (e) the dismissal of the Prime Minister, the appointment of acting Prime Minister, the dissolution of Parliament and the appointment of a caretaker Prime Minister in or about March 2001, and all related acts or omissions between March 2001 to September 2001;
- (f) all dialogues, discussions, correspondence between the Republic of Fiji Military Forces and the Government, between September 2001 to December 2006;
- (g) the dismissal of the Prime Minister, the taking-over of executive authority, the appointment of the caretaker Prime Minister, the declaration of a state of emergency, the dissolution of Parliament in December 2006 and all acts or omissions of any prescribed person, including all acts carried out in December 2006, which in a judgment of the prescribed person, was necessary to maintain peace, public order and safety in Fiji;
- (h) the return of executive authority to the President of Fiji, the appointment of an interim Prime Minister and other Cabinet ministers in January 2007, and all acts or omissions of any prescribed person from January 2007 to April 2009, which in the judgment of the prescribed person, was necessary to maintain peace, public order and safety in Fiji; and
- (i) the abrogation of the Constitution Amendment Act 1997, the establishment of executive authority by the President, the appointment of Prime Minister and other Cabinet Ministers in April 2009 and all acts or omissions of any prescribed person in April 2009 which in the judgment of the prescribed person was necessary to maintain peace, public order and safety in Fiji.

Unconditional grant of immunity

3. Absolute and unconditional immunity is irrevocably granted to all prescribed persons from any criminal prosecution and from any civil or any other liability in any court or tribunal, in any proceeding including any other legal, military, disciplinary, professional proceedings or consequences and from any order or judgment of any court or tribunal or other body as a result of any direct or indirect participation or involvement in any prescribed political event, or pertaining to or arising from any prescribed political event.

Limited exemption of State

4. No compensation shall be payable by the State to any person in any proceeding in any court or tribunal in respect of any claim, damage or injury, consequent upon or otherwise arising from any prescribed political event for which immunity has been granted to any prescribed person under this Decree.

Ex-gratia payments

5. Notwithstanding this Decree, the State may on an ex-gratia basis provide compensation to any person who has suffered any injury to either that person or to property of that person, directly or indirectly attributable to the acts of any of prescribed person as a result of any direct or indirect participation or involvement in any prescribed political event.

Consequential restrictions

6.—(1) No court, tribunal, commission or any other adjudicating body shall have the jurisdiction to accept, hear, determine or in any other way entertain, any challenges at law, in equity or otherwise (including any application for judicial review) by any person or body, or to entertain or grant any remedy to any person or body in relation to the validity, legality or propriety of any action or omission by any prescribed person in relation to any prescribed political event.

(2) Any claim, dispute or grievance of a civil nature pending in any court, tribunal, commission or before any other person or body exercising a judicial function, which purports to or purported to assert any claim or remedy of any nature, or to challenge any action, decision or order of any of the prescribed persons relating to a prescribed political event, shall wholly terminate upon the commencement of this Decree and all orders whether preliminary or substantive made therein shall wholly terminate upon the commencement of this Decree, and a certificate to that effect shall be issued by the Chief Registrar, Tribunal, Commission or any other person or body exercising a judicial function.

(3) A certificate under subsection (2) 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.

(4) A decision of the Chief Registrar, Tribunal, Commission or any other person or body exercising a judicial function to issue a certificate under subsection (2) is not subject to challenge in any court, tribunal, commission or any other adjudicating body.

GIVEN under my hand this 22nd day of March 2010.

EPELI NAILATIKAU
President of the Republic of Fiji