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GOVERNMENT OF FIJI

MAGISTRATES' COURT (AMENDMENT) DECREE 2011
 (DECREE NO. 24 OF 2011)

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 of Fiji Decree 2009, I hereby make the following Decree—

TO AMEND THE MAGISTRATES' COURT ACT [CAP. 14]

Short title and commencement

1.—(1) This Decree may be cited as the Magistrates' Court (Amendment) Decree 2011, and shall come into force on a date to be appointed by the Minister by notice in the *Gazette*.

(2) In this Decree, the Magistrates' Court Act [Cap. 14] shall be referred to as the "Principal Act".

Section 2 amended

2. Section 2 of the Principal Act is amended by inserting the following new definition—

"Chief Registrar means a judicial officer with High Court jurisdiction under various Acts, Decrees and by virtue of the High Court Rules, and who may also exercise all powers and jurisdiction of a Resident Magistrate;"

Section 3 amended

3. Section 3 subsection (2) of the Principal Act is amended by inserting in paragraph (a) after the word 'resident magistrate' the words "including the Chief Registrar".

Section 7 amended

4. Section 7 subsection (3) of the Principal Act is amended by inserting after the words 'All magistrates' and before the comma, the words "including the Chief Registrar".

New Part inserted

5. The Principal Act is amended by inserting the following new Part 8A after section 61—

"PART 8A—JURISDICTION OVER STATUTORY TRIBUNALS

Definition of statutory tribunal

61A. For the purposes of this Part, "statutory tribunal" means those tribunals, boards, committees, authorities, commissions or any other adjudicatory body established under any written law which are designated as statutory tribunals for the purposes of this Part by the Chief Justice, following consultation with the Attorney-General, by a notice published in the *Gazette*.

Magistrates may exercise jurisdiction of statutory tribunals

61B.—(1) Notwithstanding anything contained in this Act or in any written law, any magistrate appointed pursuant to this Act or the Administration of Justice Decree 2009, may exercise the jurisdiction and powers and perform any duties and functions of any statutory tribunal subject to this Part.

(2) Subject to any rules and directions made by the Chief Justice under this Part, any magistrate exercising the jurisdiction and powers or performing any duties or functions of any statutory tribunal subject to this Part, shall do so in accordance with the written law which established that statutory tribunal.

(3) Any order, award, decision, finding, judgment or ruling made by a magistrate in the exercise of the powers and the performance of duties and functions of any statutory tribunal under this Part, shall be deemed to be made by the statutory tribunal under the written law and any rules and regulations made therein which established that statutory tribunal.

(4) Any order, award, decision, finding, judgment or ruling made by a magistrate in the exercise of the powers and the performance of duties and functions of any statutory tribunal under this Part, shall be enforced or implemented in accordance with the written law and any rules and regulations made therein which established that statutory tribunal; provided however that if the written law and any rules and regulations made therein which established that statutory tribunal do not contain any provision for enforcement or implementation, then any such order, award, decision, finding, judgment or ruling made by a magistrate under this Part shall be enforced in accordance with the provisions of this Act.

(5) Where any written law provides for more than one person to be members of any statutory tribunal, it shall be lawful for only one magistrate to exercise the jurisdiction of that statutory tribunal, unless the Chief Justice may otherwise direct.

(6) Notwithstanding anything contained in the written law establishing any statutory tribunal, a magistrate exercising the powers and performing the duties and functions of that statutory tribunal pursuant to this section shall not be entitled to any additional remuneration or allowances which may be provided for in that written law.

Administration, registry and records of statutory tribunal

61C.—(1) The Chief Registrar shall establish a registry or registries within the Judicial Department to maintain the records of all proceedings of any statutory tribunal subject to this Part, and allocate such number of staff as necessary for the performance of the functions of the statutory tribunals.

(2) Subject to such directions as may be issued by the Chief Justice, the Chief Registrar or any person or persons appointed by the Chief Registrar shall be responsible for the administration and management of all statutory tribunals subject to this Part, including the allocation to any magistrate of the cases, applications, appeals, pleas, submissions or other matters as the case may be, which have been pending before any statutory tribunal.

(3) Where under the written law, a statutory tribunal is required to provide regular records or reports to any person or authority, then any such records or reports shall, upon the commencement of this Part, be prepared by the Chief Registrar in accordance with that written law and provided to the Chief Justice, and to such other person or authority as the Chief Justice may direct.

Lodgement or filing of applications, etc.

61D. Upon the commencement of this Part, all cases, applications, appeals, pleas, submissions or other matters as the case may be, that are required to be lodged or filed by any person to any statutory tribunal, shall be lodged or filed in the registry established by the Chief Registrar under section 61C.

Appeals

61E. Any appeal from the decision of a magistrate exercising the jurisdiction of a statutory tribunal subject to this Part, shall be made in accordance with the written law that established that statutory tribunal, provided however, that

- (i) if any written law that established the statutory tribunal provides for an appeal against the decision of that statutory tribunal subject to this Part to be made to the Magistrates' Court, then any appeal from the decision of a magistrate exercising the jurisdiction of the statutory tribunal under this Part shall lie to the High Court; and
- (ii) if any written law that established the statutory tribunal does not provide for any appeal against the decision of that statutory tribunal, then any appeal from the decision of a magistrate exercising the jurisdiction of the statutory tribunal under this Part shall lie to the High Court.

Rules and directions

61F. Notwithstanding anything contained in any written law, the Chief Justice may make rules or issue directions for regulating the practice and procedure for the exercise of jurisdiction of statutory tribunals by a magistrate, and all such matters necessary to give effect to this Part.

Transitional and savings

61G.—(1) Upon commencement of this Part, the Chief Registrar shall require all cases, applications, appeals, reviews, submissions, determinations or any other matter before the statutory tribunal to be transferred to the Chief Registrar, in such manner as the Chief Registrar may direct.

(2) Any person who, at the date of the commencement of this Part, is responsible for the records or the registry of any statutory tribunal subject to this Part, shall transfer all records, documents or such other particulars as the Chief Registrar may require, to the Chief Registrar.

(3) Subject to any specific directions as may be issued by the Chief Justice, all existing appointments of members or any employee of any statutory tribunal subject to this Part, shall be deemed to have been annulled upon the commencement of this Part; provided however, that any member or employee of any statutory tribunal subject to this Part may be transferred to the Judicial Department without his or her appointment being annulled, in such manner as directed by the Chief Justice.

(4) Upon the commencement of this Part, no person may be appointed as, or as a member of, a statutory tribunal subject to this Part under the written law which established that statutory tribunal.

(5) At the commencement of this Part, the existing fees and forms prescribed in any written law establishing a statutory tribunal subject to this Part shall continue to be applicable for the purposes of this Part, until such time as they are amended or revised by the Chief Justice pursuant to section 61F.

(6) Any existing rules of procedure or practice prescribed for any statutory tribunal subject to this Part in any written law shall continue to be applicable by any magistrate exercising the jurisdiction of any statutory tribunal under this Part, until such time as they are revised or amended by the Chief Justice pursuant to section 61F; provided however, that where a written law which established a statutory tribunal does not provide any rules of procedure or practice, then the rules applicable in the Magistrates' Court shall apply *mutatis mutandis*.

(7) Any order, award, decision, finding, judgment or ruling made by any statutory tribunal subject to this Part prior to the commencement of this Part in all cases, applications, appeals, pleas, submissions or other matters as the case may be, shall continue to be effective and valid in accordance with that written law until such time as they are appealed, renewed or expired, provided however, that any interim or interlocutory order, award, decision, finding, judgment or ruling made by any statutory tribunal prior to the commencement of this Part may be reviewed by any magistrate exercising the jurisdiction of any statutory tribunal under this Part.

(8) Subject to any directions issued by the Chief Justice, all cases, applications, appeals, reviews, submissions, determinations or any other matter, which had been heard by the statutory tribunal prior to the commencement of this Part but not finally determined, shall be determined by a magistrate in accordance with this Part, in such a manner as the magistrate may deem just and appropriate in the circumstances.

(9) All written laws and any amendments thereto establishing and providing for any statutory tribunal subject to this Part shall continue to remain valid, provided however, that in the event of any inconsistency with that written law and this Part, this Part shall prevail.

(10) The Chief Justice may make rules for the purposes of such other transitional matters, as may be necessary to give effect to this Part.”

GIVEN UNDER my hand this 13th day of May 2011.

EPELI NAILATIKAU
President of the Republic of Fiji