

EXTRAORDINARY



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## GOVERNMENT OF FIJI

REFORM OF INFORMATION TECHNOLOGY AND COMPUTING SERVICES DECREE 2013  
(DECREE NO. 17 OF 2013)

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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 ESTABLISH THE INFORMATION TECHNOLOGY AND COMPUTING SERVICES STEERING COMMITTEE FOR THE RESTRUCTURE OF THE DEPARTMENT OF INFORMATION, TECHNOLOGY AND COMPUTING SERVICES AND FOR RELATED MATTERS

PART 1—PRELIMINARY

*Short title and commencement*

1. This Decree may be cited as the Reform of Information Technology and Computing Services Decree 2013 and shall come into force on the date of its publication in the *Gazette*.

*Interpretation*

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

“employee” means a person employed in ITC before and after the commencement of this Decree;

“ICT” means Information, Communication and Technology;

“ITC” means the Department of Information Technology and Computing Services;

“Minister” means the Minister responsible for Communications;

“person” means any natural person or business enterprise and includes, but is not limited to, a corporation, partnership, cooperative, association, the State or any subdivision or agency thereof, and any foreign State, subdivision or agency of such State or other entity; and

“Steering Committee” means the Information Technology and Computing Services Steering Committee established under section 4 of this Decree.

*Purpose*

3. The purpose of this Decree is to establish a Steering Committee to manage the administration of ITC and restructure ITC from a cost centre to a profit making centre.

PART 2—INFORMATION TECHNOLOGY AND COMPUTING SERVICES STEERING COMMITTEE

*Establishment of the Information Technology and Computing Services Steering Committee*

4. This section establishes the Information Technology and Computing Services Steering Committee.

*Composition of the Steering Committee*

5.—(1) The Steering Committee shall consist of the Minister and not less than three (3) other members appointed by the Prime Minister on the recommendation of the Minister.

(2) The Minister shall be Chairperson of the Steering Committee.

(3) The members of the Steering Committee shall hold office for a term of 3 years and are eligible for reappointment.

(4) The members of the Steering Committee who are not public officers may be remunerated in a manner and at rates subject to terms and conditions determined by the Prime Minister.

*Powers of the Steering Committee*

6. The Steering Committee shall have all powers necessary for the performance of its functions, including but not limited to—

- (a) setting up advisory groups to provide technical advice and assistance in relation to any project undertaken by the Steering Committee;
- (b) implementing and adopting policies relating to the regulation and provision of ICT goods, services and works for Government;
- (c) approving the organisational restructure of ITC;
- (d) determining the type of entity ITC will become;
- (e) formulating and implementing projects with the aim of improving the provision of ICT services in Fiji to its citizens and users;
- (f) setting fees and charges for the provisions of its assets and services;
- (g) formulating policies relating to the management of ITC;
- (h) delegating any of its functions and powers; and
- (i) issuing directives in relation to the implementation of its policies or the performance of its functions.

*Functions of the Steering Committee*

7.—(1) The functions of the Steering Committee shall be to—

- (a) manage ITC in its daily operations;
- (b) steer the work of ITC in accordance with its policies;
- (c) develop a policy in relation to the terms and conditions of employment for its employees;
- (d) perform in accordance with (c) the following—
  - (i) the classification of employees;
  - (ii) the transfer of civil servants into and out of ITC from other Government Departments;
  - (iii) the appointment of employees; and
  - (iv) the setting of remuneration and other terms and conditions of employment;
- (e) formulate appropriate procurement policies in terms of the procurement guiding principles for ITC;
- (f) procure ICT goods, services and works for ITC and Government Ministries and Departments;
- (g) work with Government Ministries and Departments in respect of the implementation of ITC policies;
- (h) review the structure, size and composition of ITC;
- (i) develop the software of Government Ministries and Departments in accordance with its policies and projects;
- (j) facilitate consolidation and centralisation of different Government ICT requirements, data storage, systems and third party software licensing by utilising Government's Data Centre; and
- (k) carry out such other functions conferred upon it by this Decree or any other written law.

(2) The Public Service Regulations 1999 and the State Services Decree 2009 shall apply to all civil servants of ITC until such time an employment policy has been developed and implemented by the Steering Committee.

(3) Notwithstanding subsection (2), a directive issued by the Steering Committee in accordance with subsection (1) shall be complied with by the Public Service Commission, all Government Ministries and Departments and any person to which such a directive has been issued.

*Steering Committee may establish advisory groups*

8.—(1) The Steering Committee may, from time to time, establish such advisory groups as it considers necessary or expedient to assist in the performance of its functions under this Decree.

(2) A member of the Steering Committee shall be Chairperson of an advisory group established under subsection (1).

(3) An advisory group established under this section may regulate its own procedures and in the exercise of its powers under this section, such advisory group shall be subject to and act in accordance with any directions given to it by the Steering Committee.

(4) An advisory group may invite any person to attend any meeting of the advisory group for the purpose of advising it on any matter under discussion, but the person so invited shall not be entitled to vote at any such meeting.

(5) The members of an advisory group or any person invited to attend any meeting pursuant to subsection (4) may be paid such allowances and other expenses as the Steering Committee may determine, subject to approval by the Minister.

### PART 3—STEERING COMMITTEE PROCEEDINGS

#### *Steering Committee meetings*

9.—(1) At all meetings of the Steering Committee, one third of the members shall form a quorum.

(2) The Chairperson of the Steering Committee shall preside at all meetings of the Committee and in his or her absence, the Chairperson may appoint a person whether or not a member of the Steering Committee to act as Chairperson.

(3) Except as otherwise provided by this Decree, the Steering Committee may regulate its own procedures relating to meetings.

(4) Any issue raised at a Steering Committee meeting shall be decided by a majority of votes of members present and if there is an equality of votes, the Chairperson shall have a casting vote.

#### *Secretary to the Steering Committee*

10. The Steering Committee shall, upon its own discretion and at its first meeting, appoint a Secretary to the Steering Committee.

#### *Disclosure of interest*

11. A member of the Steering Committee shall immediately disclose any direct or indirect personal, pecuniary or other interest in the matter being discussed or considered at a meeting of the Committee and, unless the Steering Committee otherwise determines, take no further part in the discussion or consideration of the matter.

#### *Delegation of powers*

12.—(1) The Steering Committee may from time to time delegate to any person any of its functions and powers under this Decree.

(2) A delegation may be made subject to such time limits, restrictions and conditions as the Steering Committee thinks fit, and may under this section be made either generally or in relation to any particular circumstance.

(3) Any person authorised to perform the functions and powers of the Steering Committee by virtue of a delegation under this section shall—

- (a) seek the endorsement of the Steering Committee before implementing any decision made in exercise of any such powers and functions; and
- (b) report directly to the Steering Committee in all matters pertaining to the exercise of such powers and functions, as and when required to do so.

#### *Exemption from liability*

13. A member of the Steering Committee shall not be personally liable for any act done in good faith and without gross or wilful negligence in respect of the performance of any function or the exercise of any power by that member under this Decree.

### PART 4—PROCUREMENT

#### *Steering Committee to establish a procurement policy*

14.—(1) The Steering Committee shall formulate a procurement policy for the procurement of all ICT goods, services and works by ITC.

- (2) The procurement policy shall be tabled by the Minister before Cabinet for its approval.
- (3) All ICT goods and services procured by the Steering Committee shall be in accordance with the procurement policy.
- (4) The provisions of the Procurement Regulations 2010 shall not apply to the Steering Committee.

*Procurement policy*

15. The Steering Committee's function in relation to the procurement policy shall include—
- (a) the formulation of appropriate procurement policies in terms of the procurement guidelines;
  - (b) procurement of goods, services and works including—
    - (i) consolidation of the procurement of ICT goods, services and works across Government; and
    - (ii) processing and advertising requests for tenders and requests for proposals;
  - (c) logistical support for administration and distribution of ICT goods, services and works required by Government; and
  - (d) conducting compliance assessment of procurement functions and activities across Government.

*Request for procurement*

- 16.—(1) All requests made by Government Ministries and Departments for the procurement of ICT goods, services and works shall be made to the Steering Committee.
- (2) Upon receipt of a request under subsection (1), the Steering Committee shall either grant or refuse the request of a Government Ministry or Department in accordance with its procurement policy.

PART 5—REPORTING AND ACCOUNTABILITY

*Financial year*

17. The financial year of ITC shall be from 1 January to 31 December of each year.

*Monthly reports*

- 18.—(1) The Steering Committee shall furnish monthly reports to the Prime Minister on its activities and financials for the month to date.
- (2) The monthly report shall include the achievements of the Steering Committee *vis a vis* the requirements of its policies.

*Annual reports*

- 19.—(1) Within 3 months after the end of each financial year, the Steering Committee shall prepare an annual report of its activities during that financial year.
- (2) The Steering Committee shall send a copy of its annual report to the Minister who shall cause it to be laid before Cabinet as soon as practicable.
- (3) The annual report required by subsection (1) shall contain, amongst other things—
- (a) an audited statement of accounts prepared in accordance with generally accepted accounting practice as determined by the Fiji Institute of Accountants;
  - (b) a statement of financial performance, including a statement of the financial position of the Steering Committee;
  - (c) a statement of cash flows;
  - (d) such other information as is required to give a true and fair view of the Steering Committee's financial affairs; and
  - (e) a copy of the auditor's report.

*Corporate plan*

- 20.—(1) The Steering Committee shall in each year publish a corporate plan setting out plans for its future operations and shall act in accordance with it.

(2) The Minister may issue guidelines as to the format and content of the corporate plan and the Steering Committee shall comply with the guidelines except as otherwise agreed in writing by the Minister.

(3) A corporate plan shall, except as otherwise agreed in writing by the Minister, contain—

- (a) a forecast of profit and loss accounts, balance sheets and cash flows for the current and following two (2) financial years; and
- (b) a statement of the assumption on which the forecasts are based.

(4) The corporate plan must be consistent with the policies of the Steering Committee.

*Audit*

21. The Steering Committee shall ensure that ITC as a separate entity is audited at least once a year.

PART 6—MISCELLANEOUS

*Regulations*

22. The Minister may make regulations prescribing all matters necessary or convenient for carrying out or giving effect to this Decree.

*Consequential*

23. This Decree has effect notwithstanding any provision of any written law and accordingly to the extent that there is any inconsistency between this Decree and any other written law, this Decree shall prevail.

*Transitional*

24. For the avoidance of doubt, all policies, decisions and agreements made or entered into by ITC after 27 September 2012 shall be deemed to have been executed in accordance with this Decree.

*Decisions made under this Decree not to be challenged*

25.—(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 proceeding, claim, challenge or dispute by any person or body which that seeks or purports to challenge or question—

- (a) the validity, legality or propriety of this Decree; and
- (b) any decision of any Minister or any State official or body, made under this Decree.

(2) Any proceeding, claim, challenge or dispute of any nature whatsoever in any Court, Tribunal, Commission or before any other person or body exercising an adjudicating function, in respect of any of the subject matters in subsection (1) that had been instituted before the commencement of this Decree but had not been determined at that date or is pending on appeal, shall wholly terminate immediately upon the commencement of this Decree, and any order whether preliminary or substantive made therein shall be wholly vacated, and a Certificate to that effect shall be issued by the Chief Registrar.

(3) Where any proceeding, claim, challenge, application or dispute of any form whatsoever, is brought before any Court, Tribunal, Commission or any other adjudicating body, in respect of any of the subject matters in subsection (1), the presiding judicial officer, without hearing or in any way determining the proceedings or the application, shall immediately transfer the proceeding or the application to the Chief Registrar, for termination of the proceeding or issuance of a Certificate under subsection (2).

(4) A Certificate under subsection (2) is, for the purposes of any proceeding in a Court, Tribunal, Commission or any other person exercising a judicial function, conclusive of the matters stated in the Certificate.

(5) A decision of the Chief Registrar 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 10th day of May 2013.

EPELI NAILATIKAU  
President of the Republic of Fiji