



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

Vol. 11

FRIDAY, 26th NOVEMBER 2010

No. 134

[2081]

GOVERNMENT OF FIJI

SECURITY INDUSTRY DECREE 2010
 (DECREE NO. 57 OF 2010)

SECTIONS

PART 1—PRELIMINARY

1. Citation and Commencement
2. Interpretation
3. Meaning of “security activities”
4. Meaning of “close associate” of applicant for or holder of licence
5. Application of the Decree

PART 2—THE SECURITY INDUSTRY LICENSING AND REGISTRATION BOARD

6. Establishment of the Board, etc.
7. Composition of the Board
8. Functions and powers of the Board
9. Registrar of security licence holders
10. Delegation of functions and powers to the Registrar
11. Register of security licence holders
12. Record of the issue, renewal and cancellation of security licences

PART 3—LICENCES

Division 1—Licensing of Security Activities

13. Requirement to hold a licence

Division 2—Classification of licences

14. Classes of licence
15. Master licences
16. Master licensee
17. Individual licences
18. Provisional licences

Division 3—Licensing procedures

19. Application for a licence
20. General criteria of eligibility for granting a licence
21. Mandatory grounds for refusing a licence application
22. Inquiries in connection with consideration of licence application
23. Power to require further information
24. Grant of licence
25. Form of licence
26. Mandatory condition in case of master licence
27. Period of validity of licence

28. Suspension of licence
29. Revocation of licence
30. Variation of licence

Division 4—Review of licensing decisions

31. Security Industry Licences Appeals Tribunal
32. Jurisdiction and powers of the Appeals Tribunal

PART 4—REQUIREMENTS AND RESTRICTIONS RELATING TO LICENCES

33. Employer to supervise security activity carried on by provisional licensee
34. Certain licensees to operate only if employed by master licensee
35. Contravention of licensing conditions an offence
36. Surrender of suspended or revoked licence
37. Advertising of security activities except by master licensee an offence
38. Misrepresentation and related offences
39. Abuse of authority conferred by licence
40. Failure to produce licence on demand
41. Duty of licensee to wear or carry the licence
42. Prohibition on sale or disposal of licence
43. Restrictions on delegation of functions by licensees
44. Supervision and monitoring of provisional licensees
45. Restrictions on rostering or scheduling of licensees for security activities
46. Master licensees to have “fitness for work” policy

PART 5—MISCELLANEOUS PROVISIONS

47. Power of court to suspend licence
48. Search warrants
49. Other powers of inspection and seizure
50. Carrying Firearm forbidden
51. Offences by corporate bodies
52. Time limit for bringing proceedings for offences
53. Service of notices
54. Evidential status of certificates of the Board, etc.
55. Regulations
56. Review of the Decree

SECURITY INDUSTRY DECREE 2010
(DECREE NO. 57 OF 2010)

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—

A DECREE TO PROVIDE FOR THE LICENSING AND REGULATION OF PERSONS
ENGAGED IN THE SECURITY INDUSTRY IN FIJI

PART 1—PRELIMINARY

Citation and commencement.

- 1.—(1) This Decree may be cited as the Security Industry Decree 2010.
- (2) This Decree shall come into force on a date to be appointed by the Minister by notice in the *Gazette*.

Interpretation

2. In this Decree, unless the contrary appears—

“Appeals Tribunal” means the Security Industry Licences Appeal Tribunal established by section 32;

“approved” means approved by the Board;

“approved form” means a form recommended by the Board and prescribed by the Minister;

“Board” means the Security Industry Licensing and Registration Board established by section 6;

“close associate” has the meaning assigned by section 4;

“Commissioner” means the Commissioner of Police;

“corporate body” means a company or corporation that is registered or incorporated in Fiji;

“employ” means employ under a contract of service;

“fitness for work policy” is a policy operated by a master licensee as required by and in accordance with section 46;

“firearms” includes—

- (a) any lethal weapon with or without a barrel of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any such shot, bullet or other missile; and
- (b) an electronic shock weapon that employs an electric current to disrupt voluntary control of muscles or which causes neuromuscular incapacitation, such as a taser, stun gun or similar device;
- (c) any other weapon of any description designed or adapted for the discharge of any noxious liquid, gas or other thing dangerous to persons; and
- (d) any component part of any weapon mentioned in paragraph (a), any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon and any explosive-operated power tool, ramset, hilt or fire nail fastener operated by pneumatic pressure;
- (e) but does not include an article designed or adapted solely to discharge a spear for spearing fish;

“function” includes a power, authority or duty;

“initial licence” means the first licence an applicant for a master licence seeks or that a proposed individual or provisional licensee applies for;

“licence” means a licence identifying the holder for carrying on a security activity granted under Part 3;

“Minister” means the Minister responsible for Defence, National Security and Immigration;

“prescribed” means prescribed in Regulations;

“property” includes all forms of tangible property, whether real or personal;

“register” means the register kept by the Registrar;

“Registrar” means the Registrar of Security Licence Holders established under section 9;

“security activity” means any activity specified in section 3;

“security equipment” means—

- (a) any type of safe or vault;
- (b) any mechanical, electronic, acoustic or other device or equipment designed, intended or adapted to provide or enhance security or for the protection or surveillance of any property;
- (c) any other kind of device or equipment prescribed by regulations for the purpose of this definition,

but does not include any device or equipment expressly exempted by regulation.

Meaning of "security activities"

3. For the purposes of this Decree, a person carries on a "security activity" if that person carries on within Fiji any of the following activities in the course of conducting a business or in the course of that person's employment, namely—

- (a) acting as a bodyguard or providing close personal protection or acting in any other similar capacity;
- (b) acting as a crowd controller, venue controller or bouncer or in any similar capacity;
- (c) patrolling, protecting, watching or guarding any property, including property in transit, whether by physical or electronic means, including the conduct of control room operations, monitoring centre operations and protection against damage, arson, flood or other natural disaster;
- (d) installing, maintaining, repairing or servicing by physical or electronic means any security equipment, any equipment which the person installing, maintaining, repairing or servicing it represents as security equipment, selling or otherwise supplying, any security equipment;
- (e) selling or otherwise supplying security methods or advise;
- (f) providing the services of persons to carry on any security activity referred to in this section;
- (g) providing advice in relation to security equipment, including supplying product advice in relation to security equipment, identifying and analysing security risks, devising solutions or management strategies for the purpose of addressing and minimising security risks;
- (h) providing training or instruction in relation to any security activity referred to in this section other than formal training by a body having suitable training experience or other training provided by a master or individual licence holder;
- (i) assessing another person's knowledge and competence in relation to any security activity referred to in this section and supervising or monitoring any person who is carrying on a security activity authorised by licence;
- (j) acting as an agent including as a recruitment agent or for procuring the supply for other persons in or outside Fiji to carry on any security activity referred to in this section;
- (k) patrolling, protecting, watching or guarding of property by physical means, includes any such activity which involves the use of patrol dogs; and
- (l) any other activity which the Board may from time to time consider to be a security activity and which it may recommend to the Minister for *gazettal*.

Meaning of "close associate" of applicant for or holder of licence

4.—(1) For the purposes of this Decree, a person is a close associate of an applicant for, or the holder of, a master licence if the person—

- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power, whether in that person's own right or on behalf of any other person, in the business of the applicant for or holder of a master licence such that, in the opinion of the Board, the person is or will be able to exercise a significant influence over the conduct of that business; or
- (b) holds or will hold any relevant position, whether in that person's own right or on behalf of any other person, in the business of the applicant for or holder of a licence.

(2) In this section—

"relevant financial interest" in relation to a business means—

- (a) any share in the capital of the business; or
- (b) any entitlement to receive any income derived from the business, whether the entitlement arises at law or in equity;

"relevant position" means the position of director, manager, other person who is able to exercise control of a business, howsoever designated, and other analogous positions.

“relevant power” means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others, whereby the person exercising it—

- (a) may participate in any directorial, managerial or executive decision; or
- (b) elect or appoint any person to any relevant position.

Application of the Decree

5.—(1) This Decree binds the State.

(2) This Decree does not apply to or in respect of any person who is a member of the disciplined forces or any person who is carrying on a security service by or in—

- (a) the Fiji Independent Commission Against Corruption;
- (b) the Police Professional Standards Unit;
- (c) the Department of Correctional Services;
- (d) the Department of Justice;
- (e) Fiji Island Revenue and Customs Authority;
- (f) Department of Immigration;
- (g) Land Transport Authority; and
- (h) any other Government agency charged with protecting the security of the State.

PART 2—THE SECURITY INDUSTRY LICENSING AND REGISTRATION BOARD

Establishment of the Board etc.

6.—(1) There is hereby established a Board called the Security Industry Licensing and Registration Board.

Composition of the Board

7.—(1) The Board must consist of—

- (a) the Permanent Secretary for Defence or his nominee as the Chairperson; and
- (b) 4 other members, two of whom are from the industry and the other two non industry members.

appointed by the Minister by notice in the *gazette*.

(2) For the purpose of constituting the first Board the reference in paragraph (b) of subsection (1) to holders of a master licence shall be construed as referring to persons directly involved in the operation or ownership of a company registered in Fiji which conducts, provides or is otherwise involved in security activities.

(3) A member of the Board shall hold office for a term not exceeding 3 years and may be re-appointed on no more than two occasions.

(4) A member of the Board may resign at any time by giving notice in writing to the Minister and such resignation shall take effect upon receipt of the notice by the Minister.

(5) If the Minister is satisfied that a member of the Board is unable to perform the functions of that office on medical grounds or is unfit to do so by reason of bankruptcy, neglect of duty, other misconduct or who is otherwise unsuitable, the Minister may remove the member from the Board.

(6) If a member of the Board dies; resigns or is removed, the Minister shall as soon as practicable fill the vacancy and the member thus appointed shall hold office for the remainder of the term for which the member who is being replaced was appointed.

(7) The powers of the Board shall not be affected while there is a vacancy in its membership provided there are at all times at least three members including the chairperson.

(8) The quorum for a meeting shall be three members personally present with at least one of them being a member of the industry.

(9) Decisions of the Board shall be by majority, provided the chairperson shall have a casting vote.

Functions and powers of the Board

8. The functions of the Board are—

- (a) to consider and determine applications for the grant of security licences;
- (b) to inquire into and decide upon complaints against a holder of a security licence and to make such order or levy such penalty against the licensee concerned having regards to the circumstances;
- (c) such other functions and powers as are assigned to it by this Decree, any other written law or the Minister;
- (d) advise the Minister on any matter concerning the security industry or the operation of this Decree referred to it by the Minister;
- (e) monitor and advise on the regulation of the security industry;
- (f) establish and promote industry standards for the security industry;
- (g) keep the operation of this Decree under review and to make recommendations to the Minister;
- (h) make recommendations to the Minister with regard to the making and amendment of Regulations;
- (i) make recommendations to the Minister regarding licence fees;
- (j) consult with the Minister on the review of this Decree;

and all other functions which are incidental to or necessary for the discharge of these functions and powers.

Registrar of security licence holders

9.—(1) There shall be a Registrar of Security licence holders and such other officers and staff as the Board, with the approval of the Minister, considers necessary for carrying out the functions of the Board.

(2) The Registrar and other officers and staff of the Board shall be public officers.

Delegation of functions and powers to the Registrar

10.—(1) The Board may authorise the Registrar to exercise on behalf of the Board the Board's functions and powers in respect of applications for a provisional or individual licence, and any renewal thereof respectively.

(2) A decision of the Registrar acting pursuant to an authorisation of the Board under subsection (1) shall be deemed to be the decision of the Board and shall for all purposes be as valid as if made by the Board itself.

(3) The Board may at any time revoke in whole or in part any authorisation made under subsection (1).

Register of security licence holders

11.—(1) The Registrar shall establish and maintain a register of all security licence holders.

(2) The register shall be open to inspection by the public during ordinary office hours on payment of the prescribed fee.

(3) The Registrar shall supply to any person requesting the same a copy of any specified entry in the register upon payment of the prescribed fee.

(4) Not later than the 30th day of June of each year the Registrar shall publish in a notice in the *Gazette* a list containing the name of every holder of a valid master licence.

Record of the issue, renewal and cancellation of security licences

12.—(1) The Registrar must make an appropriate entry in the register to record the issue, renewal, cancellation and suspension of a security licence.

(2) The particulars required to be recorded in the register are—

- (a) in the case of the issue of a master licence, the name and address of the licensee, the address of the licensee's registered office and any approved branch office, the name of the manager of each such branch office, and the date on which the licence was issued;
- (b) in the case of an individual or a provisional licence, the name and address of the holder and of the holder's employer, the category of the licence, and the date on which the licence was granted;
- (c) in the case of the renewal of a licence, the date on which the renewal was granted;

(d) in the case of the suspension or cancellation of a licence, the date on which the licence was suspended or cancelled;

(3) The Registrar must also record in respect of any entry such other particulars as may from time to time be prescribed.

PART 3—LICENCES

Division 1—Licensing of Security Activities

Requirement to hold a licence

13.—(1) No person may employ or provide other persons to carry on any security activity unless that person—

- (a) is the holder of a master licence; and
- (b) employs or provides no more than the number of persons authorised by the master licence.

(2) No person may carry on any security activity apart from a security activity to which subsection (1) applies unless that person is the holder of an individual or a provisional licence and the licence authorises the person to carry on that security activity.

(3) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction if a body corporate to a fine not exceeding 100 penalty points and for an individual to a fine not exceeding 50 penalty points or imprisonment for up to 2 years or both.

(4) Any person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding 50 penalty points or imprisonment of up to 2 years or both.

Division 2—Classification of Licences

Classes of licence

14. A licence for carrying on a security activity may be of one of the following classes—

- (a) a master licence which may be for a period not exceeding 3 years from the date it is granted;
- (b) an individual licence which may be for a period not exceeding 2 years;
- (c) a provisional licence which may be for a period not exceeding 12 months from the date it is granted.

Master licences

15.—(1) A master licence may—

- (a) authorise a self-employed person to provide his or her security services;
- (b) a master licensee shall employ or provide sufficient persons each of whom must hold either an individual or a provisional licence, to carry on security activities to ensure the proper supervision and training of all provisional licence holders.

(2) A master licence does not authorise the holder to enter into any arrangement, by contract, franchise or otherwise, with another person for the purpose of that person employing or providing other persons to carry on security activities unless that person or such other persons is also the holder of a relevant master licence.

Master licensee

16.—(1) A master licensee may by reference to the following categories authorise the holder, subject to conditions imposed by the Board from time to time—

- (a) to patrol, protect, watch or guard any property, whether any such activity be conducted in a static or a mobile mode;
- (b) to act as a bodyguard or to provide close personal protection or act in some similar capacity;
- (c) to act as a crowd controller, venue controller or bouncer or in a similar capacity;
- (d) to patrol, protect, watch or guard any property with the assistance of a dog;
- (e) to patrol, protect, watch or guard any property including doing so while carrying on monitoring centre operations;
- (f) to carry out any other security activities mentioned in section 3.

(2) There shall be endorsed on a master licence and, notwithstanding sub-section (1), more than one sub-class may be endorsed on the same master licence.

(3) The licence may be extended beyond 3 years following its initial grant.

Individual licences

17.—(1) An individual licence may, subject to conditions imposed from time to time by the Board from or the Registrar, authorise the holder to conduct any of the following one or more of the following sub-classes, namely—

- (a) to act as a consultant for identifying and analysing security risks or devising solutions or management strategies for addressing or minimising security risks;
- (b) to sell security equipment, to supply product advice in relation to such equipment;
- (c) to act as a locksmith and to sell, install, maintain, repair or service security equipment, or to provide advice in respect thereof;
- (d) to sell, install, maintain, repair or service electronic security equipment, or to provide advice in respect thereof;
- (e) to carry on any other security activities mentioned in section 3.

(2) The relevant sub-class or sub classes shall also be endorsed on an individual licence.

Provisional licences

18.—(1) A provisional licence may, subject to conditions including a condition as to supervision imposed by the Board or the Registrar authorise the holder to conduct any of the following sub-classes, namely—

- (a) to act as a bodyguard or to provide close personal protection or act in some similar capacity.
- (b) to act as a crowd controller, venue controller or bouncer or in a similar capacity;
- (c) to patrol, protect, watch or guard any property with the assistance of a dog;
- (d) to patrol, protect, watch or guard any property including doing while carrying on monitoring centre operations;
- (e) to carry out any other securities activities mentioned in section 3.

(2) The relevant sub-class designation shall be endorsed on a provisional licence and, notwithstanding subsection (1); more than one sub-class may be endorsed on the same provisional licence.

(3) All provisional licences must be clearly endorsed “provisional” or with a condition that the holder is subject to supervision by a master licence holder and/or an individual licence holder.

Application for a licence

19.—(1) An application for a licence must be made to the Board, and may be made by a person in respect of a master licence, or an individual in cases of an individual or a provisional licence.

(2) Where a body corporate makes application, it must be registered under the Companies Act and must nominate, in writing on behalf of the body corporate and the nominee or nominees, a person or persons to be responsible for observance of licence conditions and the security activities of the Company.

(3) The number of nominees shall be set by the Board either generally or specifically to ensure sufficient and proper representation of a body corporate which holds a master licence and be responsible to the Board for the due and proper management of the business, observance of these Decree, and the conditions of the master licence.

(4) An application for an initial licence or a renewal thereof must be made on the approved form and be accompanied by—

- (a) the prescribed application fee; and
- (b) such further information and particulars as may be required by the Board or the Registrar as the case may be.

(5) In the case of an application for an individual or a provisional licence, the applicant must –

- (a) be sponsored by a holder of a master licence who must, in the case of an applicant who is an employed person, be the applicant’s employer; and

(b) in the case of an individual or provisional licence the name and address of the applicant's employer.

(6) In the case of the initial licence for a master licensee, the applicant should complete the prescribed form so far as possible and pay the prescribed fee, and must have a licence to operate within 6 months of the commencement of this Decree.

(7) All other individual application for a licence must complete the prescribed form so far as possible and must have a licence to be an individual licensee or a provisional licensee as the case may be a security officer within 6 months of the commencement of this Decree.

General criteria of eligibility for granting a licence

20.—(1) An applicant for a licence who is an individual must—

- (a) not be under the age of 18 years in the case of a provisional or individual licence or 21 years in the case of a master licence; and
- (b) either be a citizen of Fiji or owns or runs a local company, or a foreign company registered under the Companies Act and in the case of an individual licensee, a work permit.

(2) Before the Board decides to grant a licence it must be satisfied that—

- (a) the applicant is a fit and proper person to hold the class of licence applied for;
- (b) except where the application is for a provisional licence, the applicant possesses such qualifications, competence and experience as may be necessary in respect of the class of licence applied for;
- (c) the applicant is competent to carry out the security activity of a kind to which the licence applied for relates.

(3) Where an application is for a master licence, the Board shall not grant the licence unless the applicant's proposed fitness for work policy established under section 46 meets with the Board's approval.

(4) The Board may refuse an application for a licence if the applicant in the case of an applicant for an individual licence—

- (a) has not held for at least twelve (12) months a provisional licence which authorised the applicant to carry on the security activity to which the licence applied for relates; or
- (b) has not previously been authorised by an individual licence, other than a provisional licence, to carry on a security activity of a kind to which the licence applied for relates;

(5) Where an applicant for a master licence has previously held a licence which authorised the applicant to carry on a security activity of a kind to which the licence applied for relates, the Board must take into consideration when determining the application whether the applicant—

- (a) is able to demonstrate active participation or employment in the security industry including supervision and managerial activities for a significant period of the period of validity of the previous licence.
- (b) has been engaged in the security activity which was authorised by the previous licence for a significant period; and
- (c) is able to demonstrate a continuing knowledge and competence in respect of the security activity which was authorised by the previous licence.

(6) The Board may refuse to grant an application for a licence if it considers that to do so would be contrary to the provisions of this Decree, the expected standards of the security industry or public interest.

(7) For the purpose of determining whether an applicant is a fit and proper person to be hold a licence of the class applied for, the Board may have regard to any report or other information supplied by the police or other law enforcement body, whether of Fiji or any other country, in respect of the applicant, which is relevant to the activities carried out under the class of licence sought by the applicant and the suitability of the applicant to hold a licence of that class;

(8) In providing reasons for refusing an application for a licence, the Board is not to disclose anything contained in any report or other information of the kind referred to in subsection (7) which is not already in the public domain or otherwise accessible to the public.

Mandatory grounds for refusing a licence application

21.—(1) The Board must refuse an application for a licence where it is established that—

- (a) during the period of ten (10) years immediately before the date on which the application was made the applicant has been convicted, whether in Fiji or elsewhere, of an offence which if it occurred in Fiji would be indictable offence of a kind prescribed in Regulations or other offences against a person or property which the Board considers relevant;
- (b) within the period of ten (10) years immediately before the date on which the application was made the applicant, being an individual, has been dismissed as a uniformed officer within the discipline force or any other country on a ground which, in the Board's opinion, reflects adversely on the applicant's integrity as an officer of a disciplined service police officer;

(2) At the discretion of the Board a reference in this section to an applicant may be applied in the case of an application for a master licence if either of subsection (1) (a) or (b) applies to a person who is a close associate of the applicant.

Inquiries in connection with consideration of a licence application

22.—(1) The Board may conduct such investigations and inquiries as it considers necessary in respect of an application for a licence.

(2) The Board may require an applicant who is an individual to supply the Board with-

- (a) samples of fingerprints taken by the police officer or other person authorised by the Board in writing;
- (b) a recent photograph which is certified on its reverse side by a person who satisfies a qualification to act for that purpose which is prescribed in regulations as being a true likeness of the applicant,

for the purpose of verifying the applicant's identity.

(3) Where an applicant does not consent to provide samples of fingerprints in accordance with subsection (2) or any information the Board may ask for the Board may decline to give further consideration to the application, in which case the application is deemed to have been refused.

(4) A requirement imposed by this section on an applicant also applies to any person who is a close associate of the applicant.

Power to require further information

23.—(1) Without prejudice to the generality of section 25(1), the Board may by notice in writing require an applicant for a licence, or any other person who in the opinion of the Board has some material association or connection with the applicant relevant to the investigation and determination of the application, to do any of the following, namely—

- (a) to provide information, which shall be verified by statutory declaration, as to such matters as the Board shall specify in the notice as it may consider relevant to and necessary for its determination of the application;
- (b) to produce for the Board's examination records as to such matters or of such a character as the Board shall specify in the notice as it may consider relevant to and necessary for its determination of the application, and to permit the Board to take extracts from or make copies of any such records in any convenient or appropriate form;
- (c) in the case of an applicant for a master licence who has previously held either a licence of that class, an individual or a provisional licence, to provide, in accordance with directions in the notice, a statement from each of the applicant's previous employers which specifies the duration of the applicant's employment with the employer and the nature of the security activities carried out by the applicant during the employment in so far as the period of the employment fell within the term of the previous licence;
- (d) to furnish the Board with such authorisations and consents as are specified in the notice to enable the Board to obtain information concerning the applicant from other persons which is otherwise protected from disclosure by a duty of confidentiality.

(2) Subject to subsection (3), if a person to whom a requirement of the Board contained in a notice issued under subsection (1) neglects or refuses to comply with that requirement the Board may decline to give further consideration to the application in which case the application is deemed to have been refused.

(3) Before the Board may decide not to give further consideration to an application by virtue of subsection (2) it shall invite and consider any representations from any person who has not complied with a requirement contained in a notice issued under subsection (1) as to why the requirement was not complied with.

(4) A person who complies with a requirement contained in a notice issued under subsection (1) shall not on that account alone incur any liability to any other person.

(5) The Board may require an applicant to pay to the Board a sum which represents the reasonable costs, including the cost of any necessary travel both within and outside Fiji, it has incurred in the course of investigating and inquiring into an application for a licence.

(6) It is a condition of the issue of any licence which the Board decides to grant under this Part that the costs determined under subsection (5) shall first be paid by the applicant.

(7) A certificate signed by or under the authority of the Board certifying the amount of the costs determined by the Board to be reasonable under subsection (5) shall be prima facie evidence of such costs and admissible in any proceedings for their recovery.

Grant of licence

24.—(1) After considering an application for a licence, the Board may—

- (a) grant the application, in which case the Board shall authorise the collection of the licence by the nominee at the office of the Registrar; or
- (b) refuse to grant the application.

(2) A licence confers no right of property and cannot be transferred or assigned by the licensee to another person and cannot be the subject of a mortgage, charge or other encumbrance by way of security.

(3) The Board may attach to a licence—

- (a) such conditions as are stipulated or in the opinion of Board desirable in respect of any particular class or sub-class of licence by this Decree;
- (b) such other conditions as it deems reasonably necessary or appropriate, including any general conditions as may be prescribed by regulations, and may add to or modify such conditions from time to time during the period of validity of the licence; and
- (c) in the case of an initial licence only, may grant such a licence subject to conditions it considers necessary to comply with this Decree and any Regulations made hereunder requiring the licensee to put into effect such matters or things as the Board deems necessary to achieve such compliance within such period as the Board may stipulate in such a condition within a period no greater than 6 months from the date the licence is granted.

(4) If a licence is not collected at the place nominated for its collection under paragraph (a) of subsection (1) within sixty (60) days of the date of grant the applicant of the licence the grant shall be deemed to have been revoked.

Form of licence

25.—(1) A licence shall be issued in the approved form appropriate to the class of licence.

(2) A licence must—

- (a) in the case of a licensee who is an individual or in the case of, display a recent photograph of the licensee which is certified on its reverse side by a person who satisfies a qualification to act for that purpose which is prescribed in regulations as being a true likeness of the applicant;
- (b) bear the signature of the licensee in the case of a licensee who is an individual, and in any other case, the signature of a director, company secretary or other person with a responsibility for the management of the licensee;
- (c) specify the class and sub-class of the licence;

- (d) indicate the serial number of the licence;
- (e) contain such other particulars as may be required by the Board or the Registrar with the approval of the Board prescribed in Regulations.

Mandatory condition in case of master licence

26. It is a condition of every master licence that the licensee must not employ or provide any person to work in any area of security activity which involves access to any operational information relating to the licensee's security business if that person would be disqualified from being granted a security licence.

Period of validity of licence

27.—(1) The licence comes into force on the day upon which it is issued.

(2) A licence shall be valid and remain in force—

- (a) in the case of a master licence, for a period not exceeding three (3) years; or
- (b) in the case of an individual licence, for a period not exceeding two (2) years and a provisional licence, for a period not exceeding twelve (12) months from the date it is granted;

unless it is sooner suspended, surrendered or revoked or its validity is otherwise terminated.

(3) A licensee who wishes to extend the period of validity of a licence must apply to the Board who may delegate the matter to the Registrar in the case of an individual or provisional licence for the grant of a new licence at least 30 days before the date on which the current licence is due to expire.

Suspension of licence

28.—(1) Where the Board is satisfied that there are grounds for revoking it, it may suspend a licence.

(2) At least 21 days before the Board considers suspending the licence, it shall serve a notice on the licensee, either in person or through the post, which states—

- (a) that the licence may be suspended;
- (b) the reasons for suspending the licence;
- (c) that the licensee may within 14 days make written representations to the Board why the licence should not be revoked; and
- (d) the licensee may appear at the Board hearing in person or by counsel.

(3) A licensee is prohibited from carrying on any security activity whatsoever suspension is in force.

Revocation of licence

29.—(1) The Board may revoke a licence if it is satisfied beyond reasonable doubt that the licensee—

- (a) knowingly supplied information in, or in connection with, the application for the licence which was false or misleading in a material particular; or
- (b) is shown to have contravened any provision of this Decree whether or not the licensee has been convicted of an offence in respect of that contravention; or
- (c) knowingly contravenes any condition of the licence.

(2) Where any matter has arisen since a licence was granted which would oblige the Board under this Decree to refuse a new application by the licensee for a licence, the Board may revoke the licence, unless, following written notice from the Board, the Board is satisfied that the matter is no longer of effect and the Board has full power to make such inquiries, inspections or takes action necessary to establish or takes that such matter has been rectified within.

(3) Notice of a decision by the Board to revoke a licence must be served on the licensee either in person or through the post.

(4) The notice of revocation must state the date, not being a date earlier than the date on which the notice is served, on which the revocation shall take effect.

(5) Where a revocation is not to take effect until some date after the date on which the notice of revocation is served the Board may serve a further notice cancelling the revocation.

Variation of licence

30.—(1) A licensee who holds a licence may apply to the Board to vary the security activities in which the licensee is authorised to engage by adding to or deleting from among the sub-classes endorsed on the licence, or to vary other conditions of the licence.

(2) An application for a variation to the licence under subsection (1) shall be treated in a manner determined by the Board or the Registrar having regard to the nature or the variation.

*Division 4—Review of licensing decisions**Security Industry Licences Appeals Tribunal*

31.—(1) There shall be a Security Industry Licences Appeal Tribunal (“the Appeals Tribunal”).

(2) The Appeals Tribunal shall consist of the following members who shall be appointed by the Minister —

- (a) a Chairperson who is a legal practitioner of at least 7 years standing who is not the holder of a public office; and
- (b) 2 other members selected from a panel of persons who have substantial experience of the security industry.

(3) The Chairperson of the Appeals Tribunal shall be appointed for a period not exceeding 3 years and shall be eligible for re-appointment.

Jurisdiction and powers of the Appeals Tribunal

32.—(1) The Appeals Tribunal shall have jurisdiction to hear and determine an application by a person for review of a decision of the Board whereby the Board has—

- (a) refused or failed to grant that person a licence;
- (b) imposed a condition on a licence granted to that person;
- (c) revoked or suspended a licence granted to that person.

(2) For the purposes of this section, an application for the grant of a licence is taken to have been refused if the licence has not been granted within 60 days after the date on which the application was received by the Board.

(3) Subject to subsection (4) the hearing of a review shall be open to the public.

(4) Where an application for review is in respect of a decision to refuse or revoke a licence on the ground that the applicant for a licence or the licensee, as the case may be, is not, or is no longer, a fit and proper person to hold a licence of the kind in question, the Appeals Tribunal may—

- (a) in order to prevent the disclosure of any report or information of a kind referred to in section 24, receive evidence and hear argument relating to such report in the absence of the public ;
- (b) ensure that in giving reasons for its decision it does not disclose the existence or content of any such report or information without the approval of the Board.

(5) A person aggrieved by the decision of the Appeals Tribunal may appeal to the High Court on a question of law.

(6) An appeal brought under subsection (5) must be filed within 30 days from the date of the decision of the Appeals Tribunal.

PART 4—REQUIREMENTS AND RESTRICTIONS RELATING TO LICENCES*Employer to supervise security activity carried on by provisional licensee*

33.—(1) A person who holds a provisional licence must not carry on a security activity authorised by that licence except under the direct supervision of a person who holds a master licence or individual licence held by an employee of a master licence which authorises that person to carry on the security activity to which the provisional licence relates.

(2) The manner in which the supervision required by subsection (1) must be conducted may be prescribed in Regulations.

(3) The employer at the time the contravention occurs of a person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10,000.

Certain licensees to operate only if employed by master licensee

34.—(1) A person who holds a individual or provisional licence must not carry on a security activity authorised by the licence unless the person—

- (a) is employed by the holder of a master licence; or
- (b) is self-employed and is the holder of a master licence.

(2) Anyone who contravenes subsection (1) commits an offence and is liable on conviction if a body corporate to a fine not exceeding 100 penalty points and for an individual to a fine not exceeding 50 penalty points or imprisonment for up to 2 years or both.

Contravention of licensing condition an offence

35.—(1) A master licensee which is a body corporate who contravenes a condition of the licence commits an offence and is liable on conviction to a fine not exceeding 500 penalty points.

(2) A licensee other than a master licensee who contravenes a condition of the licence commits an offence and is liable on conviction to a fine not exceeding 50 penalty points or imprisonment for up to 2 years or both.

Surrender of suspended or revoked licence

36. If a licence is suspended or revoked the person whom it was granted must immediately surrender the licence.

Advertising of security activities except by master licensee an offence

37.—(1) A person must not advertise that the person carries on or is willing to carry on any security activity referred to in the advertisement unless that person is the holder of a master licence.

(2) Anyone who contravenes subsection (1) commits an offence and is liable on conviction if a body corporate to a fine not exceeding 350 penalty points and an individual to a fine not exceeding 50 penalty points or imprisonment of up to 12 months or both.

(3) Every advertisement relating to the carrying on of a security activity which is permitted by subsection (1) must exhibit the licence number of the master licensee promoting the advertisement.

(4) A person other than a master licensee who promotes an advertisement to which subsection (3) applies commits an offence and is liable on conviction to a fine not exceeding 50 penalty points or imprisonment of up to 12 months or both.

(5) A reference in this section to an advertisement includes reference to any form of notice or statement in the nature of an advertisement.

Misrepresentation and related offences

38.—(1) A licensee must not by—

- (a) any false, misleading or deceptive statement, representation or promise; or
- (b) any wilful concealment of a material fact,

induce or attempt induce any person to enter into any agreement or contract into in connection with the carrying on of any security activity.

(2) A master licensee which is a body corporate who contravenes sub section (1) commits an offence and is liable on conviction to a fine not exceeding 100 penalty points.

(3) A licensee, other than a master licensee who contravenes sub section (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty points or imprisonment for up to 2 years or both.

(4) A person must not—

- (a) in relation to any application for the purposes of this Decree; or
- (b) in relation to any information or particulars that the person is required to furnish under this Decree;

make any representation or statement that the person knows is false or misleading in a material particular.

(5) A master licensee which is a body corporate who contravenes sub section (4) commits an offence and is liable on conviction to a fine not exceeding 100 penalty points.

(6) A licensee, other than a master licensee who contravenes sub section (4) commits an offence and is liable on conviction to a fine not exceeding 50 penalty points or imprisonment for up to 2 years or both.

Abuse of authority conferred by licence

39.—(1) A licensee must not in any way—

- (a) suggest or imply that the licensee may, by virtue of the licence, perform any function or carry on any security activity apart from a function or security activity authorised by the licence;
- (b) use or attempt to use the licence to perform any function or carry on any security activity apart from a function or security activity authorised by the licence.

(2) A master licensee which is a body corporate who contravenes sub section (1) commits an offence and is liable on conviction to a fine not exceeding 100 penalty points.

(3) A licensee, other than a master licensee who contravenes sub section (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty points or imprisonment for up to 2 years or both.

Failure to produce licence on demand

40.—(1) A licensee must produce the licence for inspection on demand by—

- (a) a police officer or other member of the Fiji Police Force;
- (b) any person with whom the licensee has dealings when carrying on any security activity;
- (c) any person authorised by the Board to conduct inspections of or investigate licence holders respecting compliance with the conditions of their licences upon that person producing to the licensee evidence of the authority conferred by the Board in that regard.

(2) A master licensee which is a body corporate who without reasonable excuse refuses or is unable to produce the licence as required by sub section (1) commits an offence and is liable on conviction to a fine not exceeding 100 penalty points.

(3) A licensee, other than a master licensee who without reasonable excuse refuses or is unable to produce the licence as required by sub section (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty points or imprisonment for up to 2 years or both.

Duty of licensee to wear or carry licence

41.—(1) The holder of an individual or provisional licence must wear the licence card so that the card is clearly visible when carrying on a security activity.

(2) The licence required to be worn or produced under subsection (1) must be an original licence and not a copy, including a photocopy, thereof.

(3) In the case of a loss of a licence on proof of such loss and the identity, the Registrar on payment of the prescribed fee may replace it.

Prohibition on sale or disposal of licence

42.—(1) A licensee must not—

- (a) sell, dispose of, deliver, let out, hire or rent the licence to any other person; or
- (b) permit any other person to use the licence.

(2) A master licensee which is a body corporate who contravenes sub section (1) commits an offence and is liable on conviction to a fine not exceeding 100 penalty points.

(3) A licensee, other than a master licensee who contravenes sub section (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty points or imprisonment for up to 2 years or both.

Restrictions on delegation of functions by licensees

43.—(1) Subject to subsection (2), a master licence may delegate the carrying on of any security activity to a person who is the holder of an individual licence authorising the person to carry on that security activity, but not otherwise.

(2) The holder of a provisional licence must not delegate the carrying on of any security activity authorised by the licence to any other person.

(3) A licensee who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding 100 penalty points.

Supervision and monitoring of provisional licensees

44.—(1) A person must not for fee or reward supervise or monitor the performance of a holder of a provisional licence unless that person is the holder of a master or individual holder of a master licence which authorises that person to carry on the security activity to which the provisional licence relates.

(2) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding 50 penalty points.

Restrictions on rostering or scheduling of licensees for security activities

45.—(1) A person must not for fee or reward roster or schedule the carrying on of any security activity by the holder of an individual or a provisional licence.

(2) A master licensee which is a body corporate who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 100 penalty points.

(3) A licensee, other than a master licensee who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty points or imprisonment for up to 2 years or both.

Master licensees to have "fitness for work" policy

46.—(1) Every holder of a master licence must have in place a fitness for work policy in respect of the use of alcohol and other drugs by persons employed or provided by the licensee to carry on security activities.

(2) A holder of a master licence who employs or provides a person to carry on security activities and fails to implement the approved fitness for work policy with respect to such person commits an offence and is liable on conviction to a fine not exceeding 100 penalty points.

PART 5—MISCELLANEOUS PROVISIONS

Power of court to suspend licence

47.—(1) If—

- (a) in any court proceedings in which a licensee is convicted of an indictable offence; or
- (b) in any court proceedings in which a licensee is convicted of an offence under this Decree.

the court is of opinion on the evidence before it that the licensee's licence should be suspended or revoked, the court may order that the licence be suspended for a period not exceeding 28 days or revoked and that the licence be delivered to the court.

(2) Where a licence is delivered up to a court in accordance with an order made under subsection (1), the clerk of the court or other relevant officer must immediately send the licence and a copy of the order to the Registrar.

Search warrants

48.—(1) A police officer may apply to a Magistrate for the issue of a warrant to search a specified premises if the police officer has reasonable grounds to believe that any provision of this Decree or Regulations made under it is being or has been contravened on those premises.

(2) A magistrate to whom an application is made under subsection (1) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any police officer to enter and search the premises.

(3) A police officer who enters any premises pursuant to a search warrant issued under this section may search the premises and seize anything found therein which the officer reasonably suspects relates to any business involving the carrying on of a security activity, including, but not limited to, any registers, books, records or other documents relating to such business.

Other powers of inspection and seizure

49.—(1) If a police officer considers it necessary to do so for the purposes of obtaining evidence of the commission of an offence, may make a copy on the premises of a master licence holder of any registers, books,

records or other documents, or of any entries therein, relating to the business being carried on under the authority of the master licence and retain that copy;

(2) If a police officer considers it necessary to do so for the purposes of obtaining evidence of the commission of an offence under this Decree, the officer may require any person to answer any question relating to any registers, books, records or other documents required to be kept by a licensee under this Decree or about any other matter concerning the business being carried on under the authority of a licence.

(3) Where a police officer is authorised under this section to make copies of any registers, books, records or other documents the officer may remove such registers, books, records or other documents from the premises where they were found for the purpose of copying them, or any part of them, and return them after the copying is completed.

(4) A person who—

- (a) obstructs, hinders, prevents or interferes with a police officer in the exercise of any power conferred by this section or section 54;
- (b) fails without reasonable excuse to assist a police officer to copy any register, books, records or other documents when required to do so by a police officer acting under subsection (1);
- (c) fails without reasonable excuse to answer any question relating any register, book, record or other document or other matter to which subsection (2) applies,

if a holder of a master licensee which is a body corporate, commits an offence and is liable on conviction to a fine not exceeding 100 penalty points and if a licensee, other than a master licensee commits an offence and is liable on conviction to a fine not exceeding 50 penalty points or imprisonment for up to 2 years or both.

Carrying Firearms forbidden

50.—(1) No licensee may carry any firearm.

(2) A master licensee which is a body corporate who contravenes sub section (1) commits an offence and is liable on conviction to a fine not exceeding 100 penalty points.

(3) A licensee, other than a master licensee who contravenes sub section (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty points or imprisonment for up to 2 years or both.

Offences by corporate bodies

51.—(1) Where an offence under this Decree is committed by a corporate body every person who is a director, manager, secretary or other similar officer of the corporate body, and any person who at any time relevant to the commission of the offence was purporting to act in any such capacity, is deemed to have committed that offence unless the court is satisfied that—

- (a) the offence was committed without that person's consent, connivance or knowledge; or
- (b) where such person had knowledge of circumstances which could result in the commission of such an offence, that person—
 - (i) was not in fact in a position to influence the decisions or actions of the body corporate in order to prevent or avoid the commission of the offence; or
 - (ii) used all due diligence to prevent the commission of the offence.

(2) A person to whom subsection (1) refers may be charged with and convicted of an offence under this Decree whether or not the corporate body itself has been charged and convicted of that offence.

(3) Nothing in this section affects the liability of a corporate body for an offence under this Decree.

Time limit for bringing proceedings for offences

52. Proceedings for an offence under this Decree must be commenced not later than 3 years from when the offence was alleged to have been committed.

Service of notices

53.—(1) Any notice or other instrument required or authorised by this Decree which may served on a person by post is sufficiently addressed if it is addressed to the last address of the person known to the Board.

(2) A notice or instrument to which subsection (1) applies is taken to have been served at the time it would have been delivered in the ordinary course of post.

Evidential status of certificates of the Board, etc.

54.—(1) A certificate signed by the Secretary of the Board or the Registrar or by a person holding an office prescribed by the Regulations certifying any of the following, namely that—

- (a) a specified person was or was not, on a specified day or during a specified period, the holder of a specified kind of licence;
- (b) any licence was or was not, on a specified day or during a specified period, subject to specified conditions;
- (c) a specified person was or was not nominated as an employer in relation to the holder of a provisional licence (either in the application for the licence or at some subsequent time);
- (d) a specified person—
 - (i) had previously applied for a licence and the Board had refused to grant the licence; or
 - (ii) had not previously applied for a licence;
- (e) the Board has exempted a specified person under section 42 from having to wear a licence and that the exemption was subject to specified conditions;
- (f) a specified person—
 - (i) had not previously contravened a licence condition; or
 - (ii) had previously contravened a licence condition and had been convicted of doing so;
- (g) the licence of a specified person was or was not suspended or revoked or had or had not otherwise ceased to be in force during a specified period,

is admissible in any proceedings under the Decree as *prima facie* evidence of the matters so certified.

(2) In proceedings under this Decree a document—

- (a) purporting to be a copy of a direction, notice, authorisation, order, requirement or decision given or made under this Decree is *prima facie* evidence of the existence and terms of the direction, authorisation, order, requirement or decision of which it purports to be a copy; and
- (b) purporting to be a copy of a licence issued under this Decree is *prima facie* evidence, of the licence of which it purports to be a copy, and of the terms thereof.

Regulations

55.—(1) The Minister may make Regulations for or with respect to any matter that is required to be or permitted to be prescribed by this Decree or that is necessary or convenient to be prescribed for carrying out or giving effect to this Decree.

(2) Without affecting the generality of subsection (1), Regulations may make provision for or in respect to any of the following—

- (a) the keeping by the Board of a register of licensees and of the particulars to be contained in the register;
- (b) the approval of training courses for persons in the security industry and the accreditation of trainers and instructors to conduct security industry competency training;
- (c) specialised training courses;
- (d) security equipment;
- (e) methods and practices relating to the security industry, including—
 - (i) the carrying or display by licensees of means of identification and the production and surrender of such identification;
 - (ii) the wearing by licensees of uniforms and the character or design of such uniforms;
 - (iii) the markings that may be made on, and the design of any features of, vehicles used in or in connection with the carrying on of any security activity;
 - (iv) the preparation, keeping and maintenance by licensees of records and accounts, and the audit of any accounts, in respect of the carrying on by licensees of any business requiring a licence under this Decree and the production and inspection of such records;

- (f) the procedures relating to applications for licences including the approval of forms for that purpose and prescribing the information and particulars required to be submitted in or with an application;
- (g) any matter relating to licences, including the particulars to be endorsed on licences and to the notification by a licensee of any change in those particulars;
- (h) the granting of exemptions pursuant to section 5;
- (i) prescribing offices whose holders are authorised to sign certificates referred to in section 56;
- (j) prescribing the fees payable for any purpose for which this Decree that a charge shall or may be imposed.

(3) The Regulations may provide that contravention of a provision within the Regulations shall be an offence provided that the penalty for any such offence shall be a fine not exceeding 50 penalty points.

Review of the Decree

56.—(1) The Minister, in consultation with the Security Industry Licensing and Registration Board, shall conduct a review of the operation of this Decree as soon as possible after the expiry of a period of 5 years from the date it comes into force.

(2) The purpose of the review required by subsection (1) is to determine whether the policy objectives of the Decree remain valid and whether the terms of the Decree remain appropriate for securing those objectives.

(3) A report of the findings of the review shall be prepared and published in the *Gazette* within 12 months after the date on which the obligation to conduct the review first arises under this section.

Given under my hand this 19th day of November 2010.

EPELI NAILATIKAU
President of the Republic of Fiji