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GOVERNMENT OF FIJI

CHARITABLE TRUSTS (AMENDMENT) DECREE 2011
 (DECREE NO. 48 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—

Short title and commencement

1. This Decree may be cited as the Charitable Trusts (Amendment) Decree 2011, and shall come into force on the date of its publication in the *Gazette*.

New section inserted

2. The Charitable Trusts Act [Cap. 67] is amended by inserting the following new section after section 13:

"Cancellation of incorporation by the Minister

"13A—(1) Notwithstanding anything contained in section 13, the Minister may, by notice in writing, cancel the incorporation of the board of trustees of any charitable trust established with Government funding (whether fully or partially), if the Minister is satisfied that the charitable trust has failed to achieve its objects, or that the board of trustees have acted contrary to the objects of any such charitable trust.

(2) Upon the cancellation of the incorporation of a board of trustees by the Minister under subsection (1), such board of trustees or the charitable trust shall cease to exist as a corporate body, provided however, that the board of trustees shall be liable for any liabilities incurred by such board up to the date of cancellation.

(3) Upon the cancellation of the incorporation of a board of trustees by the Minister under subsection (1), any person who last held the office of trustee shall, within 14 days, provide the Minister with the certificate of incorporation issued to the board of trustees and a list of the assets of the charitable trust and the liabilities incurred by such board.

(4) If any person shall fail to provide the Minister with the certificate and list as provided in subsection (3), then that person shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding \$5,000.00 or to a term of imprisonment not exceeding two years, or to both.

(5) Upon receipt of the certificate and list under subsection (3), the Minister shall forward the same to the Permanent Secretary for Justice, for the Permanent Secretary for Justice to dispose the assets of the charitable trust and to wind up the charitable trust in such manner as the Minister may direct.

(6) Any decision made by the Minister and any action taken by the Permanent Secretary for Justice under this section shall not be challenged in any court of law or tribunal.

(7) Where any proceeding, claim, challenge, application or dispute of any form whatsoever is brought before any court, tribunal, commission or any other adjudicating body to challenge the decision of the Minister or the Permanent Secretary for Justice under this section, then the presiding judicial officer, without hearing or in any way determining the proceeding or the application, shall immediately transfer the proceeding or the application to the Chief Registrar of the High Court for the termination of the proceeding or the application, and a certificate to that effect shall be issued by the Chief Registrar of the High Court.

(8) A certificate under subsection (7) 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.

(9) A decision of the Chief Registrar of the High Court to issue a certificate under subsection (7) is not subject to challenge in any court, tribunal, commission or any other adjudicating body."

Given under my hand this 15th day of November 2011.

EPELI NAILATIKAU
President of the Republic of Fiji