

EXTRAORDINARY



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GOVERNMENT OF FIJI

INDUSTRY EMBLEM DECREE 2011
(DECREE NO. 33 OF 2011)

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—

PART 1—PRELIMINARY

Short title and commencement

1. This Decree may be cited as the Industry Emblem Decree 2011 and is deemed to have come into force on 18th July 2011.

Interpretation

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

“compliance criteria” means the criteria as prescribed by regulations;

“emblem” means those that are included in the Schedule;

“licence” means a licence issued under section 6 of this Decree;

“licencee” means any person who holds a valid licence;

“Minister” means the Minister for Industry and Trade;

“Ministry” means the Ministry of Industry and Trade;

“Permanent Secretary” means the Permanent Secretary for Industry and Trade;

“person” includes any company or association or body of persons, corporate or unincorporated, as the case may be;

“product list” means a list of goods included in an application for a licence for which the emblems will be used;

“repealed Act” means the Industry Emblem Act [Cap. 246].

Objectives of the Decree

3. The objectives of this Decree are to—

(a) increase import substitution by developing and promoting locally grown produce or products made in Fiji; and

(b) brand and promote locally produced or manufactured products.

PART 2—LICENCING AND REGISTRATION

Use of the emblem

4.—(1) Any person seeking to use the emblems in the Schedule must make an application in writing to the Minister.

(2) No person shall, without a licence, use, for any purpose whatsoever, the emblems, or anything so nearly or in any way resembling it as to be likely to deceive.

(3) Any person granted a Licence under section 6 must only use the emblems on goods identified on the product list as amended from time to time and approved by the Minister.

(4) Any person in breach of this section shall be guilty of an offence and liable upon conviction in the case of—

- (a) a natural person to a fine not exceeding \$25,000 for the first offence and \$50,000 for the second and subsequent offences, or to imprisonment for a term not exceeding 3 years or to both; and
- (b) a body corporate to a fine of \$125,000 for the first offence and \$250,000 for the second and subsequent offences.

Application for Licence

5. Every application must be—

- (a) in a prescribed form;
- (b) accompanied by the prescribed fee;
- (c) accompanied by an affidavit, duly sworn, stating that the good identified in the product list complies with the prescribed compliance criteria; and,
- (d) any other information that the Minister may require.

Grant or renewal of licence

6. The Minister, satisfied that the prescribed criteria are complied with, may grant a licence to an applicant, or renew a licence granted under this section, on such terms and conditions as the Minister deems fit and proper if the application complies with section 5.

Reason for refusal to be provided

7. If the Minister refuses to grant or renew an application for a licence, the Ministry must immediately notify the applicant in writing of the decision, including reasons for the refusal.

Cancellation of Licence

8.—(1) The Minister may revoke a licence if—

- (a) the terms and conditions of the licence have been breached;
- (b) upon due enquiry and after hearing any explanation by the licensee, is satisfied that the licence was issued by fraud or mistake, or
- (c) upon due enquiry and after hearing any explanation by the licensee, is satisfied that the licensee has breached any provision of this Decree.

(2) The Minister must cancel a licence if the licensee is convicted of an offence under this Decree.

(3) A cancellation must be in writing, stating the reasons, and the date upon which the cancellation takes effect.

(4) The Minister may at any time suspend any licence issued to any person pending the completion of any enquiry under this section.

(5) Any person whose licence is cancelled or suspended under this section must not use the emblems.

(6) Any person in breach of subsection (5) shall be guilty of an offence and liable on conviction in the case of—

- (a) a natural person to a fine not exceeding \$25,000 for the first offence and \$50,000 for the second and subsequent offences, or to imprisonment for a term not exceeding 3 years or to both; and

- (b) a body corporate to a fine of \$125,000 for the first offence and \$250,000 for the second and subsequent offences.

Removal or inclusion of products in the product list

9. The Minister may remove or include a product into the approved product list if he or she is satisfied that the applicant has—

- (a) paid the prescribed fee;
 (b) provided a list of good to be included or removed; and,
 (c) justified the removal or inclusion of goods in accordance with this Decree.

Register of licence holders

10.—(1) The Ministry must establish and maintain a Register of all persons licenced to use the emblems.

(2) The Register established under subsection 1 must include the—

- (a) full name of the licence holder;
 (b) licence holder's principal place of business;
 (c) number of the licence;
 (d) date of issue of the licence; and,
 (e) product list.

(3) The register established under subsection (1) shall be available to members of the public to view during normal office hours, and any person may obtain a certified copy of the information contained in the register upon payment of the prescribed fee.

PART 3—MISCELLANEOUS

Minister may exempt

11. The Minister may, upon receipt of an application in writing, exempt any person from the provisions of this Decree.

Power to make regulations

12. The Minister may make regulations necessary for carrying out or giving effect to this Decree, including making amendments to the Schedule.

Repeals and savings

13.—(1) The Industry Emblem Act [Cap. 246] is hereby repealed.

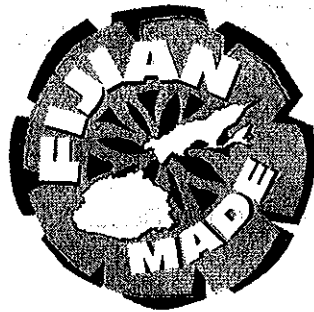
(2) Notwithstanding such repeal, any valid licence issued under the repealed Act valid and in force immediately before the coming into operation of this Decree, shall continue to have full force and effect for a period of three (3) months.

(3) The Minister may make regulations for matters of a transitional, application or saving nature arising in connection with the repeal of the repealed Act.

Decree and decisions made under this Decree not to be challenged

14. No court, tribunal, commission or any other adjudicating body shall have the jurisdiction to accept, hear, determine, or in any other way entertain any challenge at law, in equity or otherwise (including any applications for judicial review) by any person or body, or to award any compensation or grant any remedy to any person in relation to any decision of the Minister.

SCHEDULE
(Section 2)



Given under my hand this 4th day of August 2011.

EPELI NAILATIKAU
President of the Republic of Fiji

CORRIGENDUM

The Industry Emblem Decree 2011 (Decree No. 33 of 2011), published in *Gazette* No. 82 replaces the Industry Emblem Decree 2011, published in *Gazette* No. 77, which was printed in error.