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ELECTORAL COMMISSION DECREE 2000

(INTERIM CIVILIAN GOVERNMENT DECREE NO. 25)

IN exercise of the powers vested in the Interim Civilian Government by section 4 of the Interim Civilian Government (Transfer of Executive Authority) Decree No. 19 of 2000, I, Josefa Iloilovatu Uluivuda, President of the Republic of Fiji, acting on the advice of the Cabinet, hereby make this Decree—

Short title and commencement

1. This Decree may be cited as the Electoral Commission Decree 2000 and is deemed to have commenced on 29th May 2000.

Electoral Commission

2.—(1) There shall be established an Electoral Commission consisting of a Chairman and 4 other members who shall be appointed by the President and shall perform the functions and have the powers or duties conferred on it by this Decree or any other written law.

(2) The Electoral Commission established by section 78 of the 1997 Constitution continues in existence and, subject to section 4(1), the members of the Commission appointed under it continue as if their appointments were made under this Decree.

(3) A decision of the Commission requires the concurrence of a majority of its members present at a Commission meeting and the Commission may act despite the absence of one or two members but, if, in a particular case, a vote is taken to decide a question and the votes cast are equally divided, the member presiding must exercise a casting vote.

(4) Subject to this section, the Commission may regulate its own procedure.

(5) In the performance of its functions or the exercise of its powers, the Commission is not subject to the direction or control of any other person or authority, except as otherwise provided by a law.

(6) In addition to the functions conferred upon it under this Decree the Commission has such powers and other functions as are prescribed in a written law.

(7) The validity of the transaction of business of the Commission is not affected if a person not entitled to do so took part in the proceedings.

Disqualifications for Appointment

3. A person is not qualified for appointment as a member of the Commission if the person is—

- (a) the holder of a public office (other than an office of judge or Minister in the Interim Civilian Government appointed by the Commander and Head of the Interim Military Government);
- (b) a member of a local authority;
- (c) a local government officer; or
- (d) a candidate for election to the House of Representatives or to a local authority.

Terms of office, etc. of members of Commission

4.—(1) A member of the Commission may serve his or her 5 year term pursuant to appointment under the 1997 Constitution.

(2) A member of the Commission appointed under section 2 shall hold office for a term of 2 years and is eligible for re-appointment.

(3) A member of the Commission is entitled to remunerations or allowances (including other conditions) fixed by the Public Service Commission.

Functions of the Commission

5.—(1) The Commission has general responsibility for the registration of voters for elections of members of the House of Representatives and the conduct of those elections.

(2) The functions of the Commission and the Supervisor of Elections include promoting public awareness in respect of electoral matters with a view to encouraging the registration as voters of persons who have a right to be registered as well as improving the understanding of voters of the system and method of voting.

Resignation

6. A member of the Commission may resign by notice in writing addressed to the President and the resignation shall take effect, and the office shall accordingly become vacant—

(a) at such time or on such date (if any) as may be specified in the notice; or

(b) when the notice is received by the President or by such other person as may be authorised by that person or authority to receive it,

whichever is the later.

Removal from office for cause

7.—(1) A member of the Commission may be removed from office for inability to perform the functions of his or her office (whether arising from infirmity of body or mind or any cause) or for misbehavior, and may not otherwise be removed.

(2) Removal from office shall be by the President pursuant to subsection (3).

(3) If the President considers that the question of removal from office ought to be investigated, then—

(a) the President appoints a tribunal, consisting of a chairperson and not less than 2 other members;

(b) the chairperson and at least one of the other members are selected by the President from among persons who hold or have held high judicial office in Fiji;

(c) the tribunal enquires into the matter and furnishes a written report of the facts to the President and advises the President whether or not the person concerned should be removed from office; and

(d) if the tribunal advises that the person should be removed from office, the President may remove the person from office.

(4) If the question of removing a member of the Commission from office has been referred to a tribunal under subsection (3), the President may suspend the person from office and may, at any time, revoke the suspension.

(5) In the exercise by the President of a power under this section, he or she shall act on the advice of the Prime Minister.

(6) The suspension from office of a person to whom this section applies ceases to have effect if the tribunal advises the President that the person should not be removed from office.

Code of Conduct

8. Members of the Commission shall conduct themselves in relation to the performance of their public duties as not—

(a) to place themselves in positions in which they have, or could be seen as having, a conflict between their private interests and their public duties;

(b) to compromise the fair exercise of their public duties;

(c) to use their offices for private gain;

(d) to allow their integrity to be called into question; or

(e) to cause respect for, or confidence in, the integrity of the Government to be diminished.

Electoral laws

9. Cabinet shall refer any Decree or other written laws relating to electoral matters to the Supervisor of Elections and the Electoral Commission for comments before they are promulgated.

Annual Reports

10.—(1) The Commission shall prepare an annual report and submit it to the President and Cabinet concerning its operations which shall become public documents after its receipt by the President and the Cabinet.

(2) The Commission may at other times make such reports to the President and the Cabinet as it thinks fit.

Regulations

11. The Commission may by regulation make provision for regulating and facilitating the performance of its functions and giving effect to the provisions of this Decree.

Interpretation

12.—(1) In this Decree, unless the context otherwise requires—

“1997 Constitution” means the Constitution Amendment Act 1997;

“Commission” means the Electoral Commission;

“local authority” has the meaning given by the Local Government Act;

“member” includes the Chairman of the Commission;

“President” means the Interim President of the Republic of Fiji, appointed under section 2 of the Interim Civilian Government (Transfer of Executive Authority) Decree No.19 of 2000;

“Supervisor of Elections” means the person appointed as such under section 10(1)(c) of the State Services Decree No. 6 of 2000.

(2) For the purposes of this Decree, a person shall not be considered as holding a public office or a local government office, as the case may be, by reason only that the person is in receipt of a pension or other like allowance in respect of service under the government or a local authority.

(3) If there is any inconsistency with this Decree and any other written law, this Decree shall prevail.

Consequential amendment

The Electoral Act 1998 is amended in section 2 in the definition of “Commission” by deleting “section 78 of the Constitution” and substituting “section 2 of the Electoral Decree 2000.”

Made at Suva this 24th day of August 2000.

J. I. ULUIVUDA
President of the Republic of Fiji