

EXTRAORDINARY



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GOVERNMENT OF FIJI

REGULATION OF NATIONAL SPECTRUM (AMENDMENT) DECREE 2011
(DECREE NO. 16 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 Regulation of National Spectrum (Amendment) Decree 2011 and shall come into force on the 28th day of April, 2011.

Section 2 amended

2. Section 2 of the Regulation of National Spectrum Decree 2009 (“the Principal Decree”) is amended by inserting the following new definition—

“designated person” means any person so designated by the Minister pursuant to section 8(1) of this Decree.”

Section 5 amended

3. Section 5 of the Principal Decree is amended in subsection (1) by inserting the words “and spectrum planning” after the word “consultations”.

Section 7 amended

4. Section 7 of the Principal Decree is amended in subsection (1) by inserting the words “for every day on which the breach occurs” after the sum “\$100,000”.

Section 8 amended

5. Section 8 of the Principal Decree is amended by deleting the whole section and substituting—

“8.—(1) The Minister may designate any person to monitor compliance by the licensees with any allocation of spectrum, band, frequency or microwave links made under this Decree.

(2) In carrying out his or her functions under subsection (1), the designated person may enter any property containing equipment belonging to a licensee or existing licensee and carry out tests on such equipment for the purposes of ascertaining whether or not such equipment or the use of spectrum by the licensee is in accordance with spectrum allocations made by the Minister under the Principal Decree.

(3) Any person who obstructs, prevents or attempts to obstruct or prevent or solicits a person to obstruct or prevent a designated person from carrying out his or her functions under this section shall be guilty of an offence and shall be liable up on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years or both.”

Section 9 amended

6. Section 9 of the Principal Decree is amended by deleting the whole section and substituting—

“9.—(1) The Minister may make regulations and issue directives as are necessary to give effect to the provisions of this Decree.

(2) Any person who fails to follow a directive made under this section shall be liable upon conviction to a maximum fine of \$100,000 or to imprisonment for a term not exceeding 5 years.

(3) The Minister may otherwise revoke a licence or an existing licence for failure by the licensee or existing licensee to follow directives issued under this section.”

Section 11 amended

7. Section 11 of the Principal Decree is amended by deleting the whole section the whole section and substituting—

“11. No court, tribunal, commission or any other adjudicating body shall have the jurisdiction to accept, hear, determine or in any other way entertain any challenges whatsoever (including any application for judicial review) by any person or body, or to award any compensation or grant any other remedy to any person or body, in relation to the validity or legality or propriety of any action or decision of the Minister, the ministry, designated person or the Telecommunications Authority of Fiji under this Decree.”

GIVEN under my hand this 29th day of April 2011.

EPELI NAILATIKAU
President of the Republic of Fiji