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GOVERNMENT OF FIJI

TRUST ACCOUNTS (AMENDMENT) DECREE 2009
 (DECREE NO. 20)

IN exercise of the powers vested in me as the President of Fiji and Commander in Chief of the Republic of Fiji Military Forces, I hereby make the following Decree—

Short title and commencement

1. This Decree may be cited as the Trust Accounts (Amendment) Decree 2009 and shall come into force on 30th June 2009.

Section 2 amended

2. Section 2 of the Trust Accounts Act 1996 (“the Act”) is amended by inserting the following definitions—
- “Registrar” means the Chief Registrar of the Court ;
- “Commission” means the Independent Legal Services Commission, established under section 84 of the Legal Practitioners Decree 2009 (Decree No. 16 of 2009);
- “Commissioner” means the Commissioner of the Independent Legal Services Commission appointed under section 85 of the Legal Practitioners Decree 2009 (Decree No. 16 of 2009);”

Sections 3 and 4 amended

3. Sections 3 and 4 of the Act are amended by deleting “Secretary of the Law Society” wherever it appears and substituting “Registrar”.

Section 11 amended

4. Section 11 of the Act is amended—
- (a) in subsection (2) by deleting “Secretary of the Law Society” wherever it appears and substituting “Registrar”;
- (b) in subsection (8) by deleting “Law Society” wherever it appears and substituting “Registrar”.

Section 12 amended

5. Section 12 of the Act is amended in subsections (1) and (3) by deleting “Law Society” wherever it appears and substituting “Registrar”.

Section 14 amended

6. Section 14 of the Act is amended by deleting “Secretary of the Law Society” wherever it appears and substituting “Registrar”.

Section 16 amended

7. Section 16 of the Act is amended—
- (a) in the heading by deleting “Law Society” and substituting “Registrar”;
- (b) in subsection (1) by deleting “Law Society” and substituting “Registrar”;
- (c) in subsection (7) by deleting “in the case of the Law Society by the President thereof or two members of its Council” and substituting “the Registrar”.

Section 18 amended

8. Section 18 of the Act is amended by deleting “Law Society” and substituting “Registrar”.

Section 22 amended

9.—(1) Section 22(1) of the Act is amended by repealing paragraph (b) and replacing it with—

“(b) the balance as follows—

- (i) 40% to a fund to be known as the Legal Aid Fund to meet the costs and expenses of the Legal Aid Commission established by the Legal Aid Act 1996;
- (ii) 30% to a fund to be known as the Independent Legal Services Commission Fund to meet the costs and expenses of the Commission, established by the Legal Practitioners Decree 2009;
- (iii) 25% to a fund to be known as the Judiciary Fund, to meet the costs and expenses for improving court premises, purchasing equipment for various courts in the divisions, including acquisition of equipment for the Judiciary, implementing electronic recording of court proceedings, and for such other purpose as the Chief Justice may direct;
- (iv) 5% to a fund to be known as the Fidelity Fund to make the payments from such fund which may be lawfully required by the Commission to be paid. Where the amount of the Fidelity Fund, including any interest earned by the Fidelity Fund, exceeds one million dollars at the end of any quarter, such excess shall be applied proportionally between the other funds established by this sub-section.”

(2) Section 22(3) of the Act is repealed and replaced by the following—

“(3) The Funds Trustee may at its discretion apply from the Legal Aid Fund, the Independent Legal Services Commission Fund and the Judiciary Fund moneys to the Legal Aid Commission or the Commission or the Judicial Department respectively on receipt of such assurances as it might think fit that those moneys will be applied for the purposes designated for those funds in sub-section 1(b) of this Section.”

Section 23 amended

10. Section 23 of the Act is repealed and replaced by—

“Fidelity Fund

23.—(1) The Fidelity Fund constituted by Section 22 shall be applied at the direction of the Commission for the purpose of reimbursing persons who suffer loss through the stealing or fraudulent misappropriation by a legal practitioner in private practice on his or her own account or in partnership with others, or by any clerk or servant of such legal practitioner, of any money or other property entrusted to such legal practitioner, clerk or servant in the course of such practice. No reimbursement shall be made under this Section however in respect of the loss of any money or other property entrusted to a legal practitioner, clerk or servant for the sole purpose of investment. The word “investment” in this sub-section shall have the meaning as it has in Section 6(2).

(2) The total amount which may be applied from the Fidelity Fund in reimbursement of all persons who suffer loss through stealing or fraudulent misappropriation by the same legal practitioner or servant or clerk of such practitioner shall not exceed the sum of \$50,000-00 in any 12 month period.

(3) The Commission may direct, notwithstanding the preceding sub-section, after taking into account all liabilities of the fund whether ascertained or contingent, that such amount in excess of the total amount limited by the previous sub-section be paid as it thinks fit towards reimbursement of such persons.

(4) In considering any claim pursuant to this Section, the Commission may in its absolute discretion direct that there be paid to the claimant out of the Fidelity Fund in addition to the amount to which the claimant would otherwise be entitled pursuant to this Section, interest on such part of the

claim for such period and at such rate as the Commission may determine, and such costs and expenses as the Commission may consider have been reasonably incurred by the claimant in making and proving the claimant's claim pursuant to this Section.

(5) The Funds Trustee shall pay from the Fidelity Fund such amount and to such person as the Commission may direct in accordance with its obligations under this Section."

Sections 24 and 25 amended

11. Sections 24 and 25 of the Act is repealed.

Section 27 amended

12. Section 27 of the Act is amended in paragraph (c) by deleting "Law Society" and substituting "Registrar".

New section 30 added

13. The Act is amended by adding the following new section—

"Transitional

30.—(1) The Funds Trustee shall close the Law Society Fund and the Stabilisation Fund on 30th June 2009, and no further moneys from the contribution fund shall be distributed to the Law Society Fund and the Stabilisation Fund.

(2) The Funds Trustee shall pay any monies available in the Law Society Fund on or before 30th June 2009 to the Society.

(3) The Funds Trustee shall distribute any monies available in the Stabilisation Fund on or before 30th June 2009, as follows—

- (a) 50% to the Independent Legal Services Commission Fund established under section 22(1)(b) to meet the costs and expenses of the Commission; and
- (b) 50% to the Judiciary Fund established under section 22(1)(b), to meet the costs and expenses for improving court premises, purchasing equipment for the Judiciary, including acquisition of equipment for implementing electronic recording of court proceedings, and for such other purpose as the Chief Justice may direct."

GIVEN UNDER my hand this 23rd day of June 2009.

JOSEFA ILOILOVATU ULUIVUDA
President and Commander in Chief
of the Republic of Fiji Military Forces