

Litter Decree 1991

GOVERNMENT OF THE SOVEREIGN DEMOCRATIC REPUBLIC OF FIJI

DECREE NO. 29

LITTER DECREE, 1991

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IN exercise of the powers vested in me as President of the Sovereign Democratic Republic of Fiji and Commander-in-Chief of the Armed Forces, and acting in accordance with the advice of the Prime Minister and the Cabinet, I hereby make the following Decree:

PART I-PRELIMINARY

Short title

1. This Decree may be cited as Litter Decree, 1991.

Interpretation

2. In this Decree unless the context otherwise requires:

"dangerous litter" means litter that is dangerous, or liable to become dangerous, and includes:

(a) any litter which, if deposited in a public place, is likely to endanger any person or to cause physical injury, disease or infection of any kind to any person coming into contact with it;

(b) any bottle (whether broken or not), glass or article containing glass;

(c) sharp metal or trap;

(d) any substance of a toxic or poisonous nature; and

(e) any offensive liner that is dangerous;

"depositing" in relation to litter, includes casting, leaving, placing, spilling, throwing, dropping, allowing to drop, or otherwise disposing of litter;

"litter" includes any refuse rubbish, garbage, debris, dirt, rubble, ballast, stones, empty receptacles, items which are likely to hold water, earth, waste matter, containers, derelict vehicles, derelict vessels, sputum or nasal fluid, animal remains, or any other matter of a like nature;

"liner prevention officer" or "officer" means an officer appointed in accordance with Section 3 or Section 4;

"offensive litter" means any litter that, if deposited in a public place, defaces, defile or pollutes, tends to deface, defile or pollute, contributes to the defacement, defilement or pollution of that place, or spoils or tends to spoil the amenity of that place;

"public authority" means:

(a) in respect of a city or town constituted under the provisions of the Local Government Act, the city or town council;

(b) the Central Board of Health constituted under the Public Health Act;

(c) Rural Local Authorities constituted under the Public Health Act; and

(d) any other body or classes of bodies declared by the Minister by notification in the *Gazette* to be public authorities for the purposes of this Decree;

"public place" includes:

(a) every highway, road, street, public drain, private street, footpath, accessway, services lane, court, mall thoroughfare and bridge;

(b) any park, garden, or other place of public recreation to which the public has access;

(c) any beach or foreshore, the bank of any river or stream, the margin of any lake, or forest area, to which the public makes access;

(d) any waters to which the public traditionally has access for bathing or other recreational purposes;

(e) every harbour, wharf, pier or jetty to which the public has access;

(f) any airport within the meaning of Section 2 of the Civil Aviation Act;

(g) any open market place, any other place where food is exposed or sold in the open air and any other place in the open air to which the public has access;

(h) every harbour, wharf, pier or jetty to which the public has access;

(i) any other place in the open air to which the public has access as of right without payment of any fee-but does not include any site for the disposal of litter, or any receptacle installed in any public place pursuant to this Decree or any other written law; "site for the disposal of litter" means any area set apart as a site for the deposit and disposal of night soil, refuse, or any other litter pursuant to the Public Health Act or any other written law.

PART II-LITTER PREVENTION

Appointment of litter prevention officers by public authorities

3.-(1) Any public authority may from time to time appoint any suitable person (whether already employed by the authority or not) to be a litter prevention officer to exercise the duties conferred on him by this Decree in any public place under the control of the authority.

(2) Every such appointment shall be on such terms as to remuneration and other conditions of employment as the appointment authority may determine.

(3) Every officer shall hold office during the pleasure of the authority appointing him may at any time be removed from office by it, or he may at any time resign his office by notice in writing in accordance with the terms and conditions of employment.

(4) The authority shall supply to every officer appointed by it a written warrant under the seal of the authority and an identity card evidencing the appointment and the production of that warrant or identity card shall be sufficient proof of the appointment.

(5) Every such officer shall, on the termination of his appointment, whether by removal from office or by resignation, surrender to the authority employing him his warrant of appointment, any documents issued to him, the identity card and any uniform or badge of office that may have been issued to him.

Other litter prevention officers

4. The following persons shall by virtue of their office be deemed to be litter prevention officers for the purposes of this Decree:

(a) every police officer;

(b) every officer appointed for the purposes of the Public Health Act, while he is acting in the exercise of his powers or in the discharge of his duties under that Act;

(c) the Port Master and Deputy Port Master appointed under section 39 of the Ports Authority of Fiji Act while acting in the exercise of their powers or discharge of their duties in a port;

(d) every forest officer or forest guard appointed for the purposes of the Forest Act, while he is acting in the exercise of his powers or the discharge of his duties under that Act.

Powers and duties of litter prevention officers

5.-(1) Every litter prevention officer is authorised to enforce the provisions of this Decree and may, without further authority than this Section, summarily intervene to prevent the deposit or attempted deposit of litter in any public place in which he is authorised to act.

(2) If any such officer finds a person depositing litter (whether inadvertently or otherwise) in a public place in which he is authorised to act, or if he has good cause to believe that a person has deposited litter (whether inadvertently or otherwise) in any such place, the officer may require him to:

(a) forthwith place the litter in the nearest receptacle; or

(b) if by reason of the size or quantity of the litter or for any other reason it is not practicable for the litter to be placed in a receptacle, to remove the litter within 24 hours to a place approved of by the officer; or

(c) if there is no nearby receptacle or place for the disposal of litter to forthwith remove the litter and dispose of it to the satisfaction of the officer.

(3) If any such officer finds a person committing an offence against Section 8 or Section 9, or has good cause to believe that a person has committed such an offence or an offence under Section 6, the officer may require that person to state his true name and place of residence.

Offences in respect of litter prevention officers

6. A person who:

- (a) wilfully obstructs or hinders prevention officer while acting in the execution of any of the powers or duties conferred on him by this Decree;
- (b) without lawful excuse, fails within a reasonable time comply with the requirement of an officer exercising the power conferred on him by Section 5(2);
- (c) after being required to disclose his true name and place of residence by an officer acting pursuant to the power conferred on him by Section 5(3)-
 - (i) refuses to disclose his true name or place of residence;
 - (ii) gives a false name or place of residence; or
 - (iii) gives such a general description of his place of residence as is illusory for the purpose of discovery;
- (d) personates or falsely pretends to be an officer;
- (e) offers violence to, assaults, threatens, intimidates, uses threatening language towards, or behaves in a threatening manner to any office while he is acting in the exercise of his powers or the discharge of his duties under this Decree; or
- (f) gives or agrees to give or offers to an officer any gift or consideration as an inducement or reward for any act done or to be done, or for any forbearance observed or to be observed, or for any favour shown or to be shown by him, or who, being such an officer, accepts or agrees to accept or solicits any such gift or consideration,

is guilty of any offence and is liable to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Public authorities to provide receptacles in public places

7.-(1) Every public authority shall at all times provide and maintain in every public place under its control or management where litter is likely to be deposited or left such number of receptacles of suitable construction and design for the deposit of litter as may reasonably be necessary to ensure that the place may be kept free of litter.

(2) Every public authority shall also make appropriate provision for the emptying of its receptacles and for the removal and disposal of those contents at regular intervals.

PART III-OFFENCES

Depositing litter in a public place

8.-(1) A person who deposits and abandons any dangerous litter in or on any public place

is guilty of an offence, and is liable, in the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding one thousand dollars, or to both such fine and imprisonment, or, in the case of a body corporate, to a fine not exceeding two thousand dollars.

(2) A person who deposits and abandons any litter or offensive litter in or on any public place is guilty of an offence, and is liable, in the case of an individual, to a fine not exceeding four hundred dollars or, in the case of a body corporate, to a fine not exceeding one thousand dollars.

(3) If a person is charged with having committed an offence against subsection (1) and the court decides that the litter which is the subject of the charge is litter or offensive litter and not dangerous litter, that person may be convicted of an offence against subsection (2).

(4) If any person commences the act of depositing litter, dangerous litter, or offensive litter in any public place and that litter comes to rest in a place other than a public place, that person may nevertheless be convicted of an offence against this section.

Wilful breaking of bottles or glass in a public place

9. A person who wilfully breaks any bottle, glass, or any article made of glass, in or on any place is guilty of an offence and is liable to a fine not exceeding four hundred dollars, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Constructive deposit of litter

10. A person shall be deemed to have deposited litter if:

(a) he causes litter to be deposited; or

(b) being an employer or other person with authority over another, he directs that other to deposit litter.

Liability of officers of body corporate

11. If a body corporate commits an offence against Section 8, every director, manager, secretary, or other similar officer of the body corporate, and every person purporting to act in any such capacity, shall also be guilty of that offence if the act or omission constituting the offence occurred at his direction or with his consent.

Offender may be ordered to clear area

12.-(1) Without limiting the powers conferred on litter prevention officers by this Decree, if any person is convicted of an offence against Section 8, the court may, instead of or in addition to imposing a fine, order the offender under supervision and to the satisfaction of a person nominated by the court, to clear up and remove litter from any specified area within such period and to such place as may be specified in the order; and on the making of any such order the court shall further order that, if the offender fails to comply with the order, he be liable, in addition to any fine imposing and in Section 8, to a penalty not exceeding two hundred dollars.

(2) If an order made under subsection (1) is complied with to the satisfaction of the person nominated by the court, that person shall give or send to the offender a statement in writing to that effect.

(3) If an offender fails to comply with any such order, any resident magistrate, on the application of the person nominated by the court to supervise the clearing and removal of the litter, may issue a summons requiring the offender to show cause why the penalty imposed by the order should not be enforced.

(4) On the hearing of the summons to show cause, the court may make such order as it thinks fit.

Cost of removing liner

13. If a court convicts a person of an offence against Section 8, it may, if it thinks fit, in addition to imposing any other penalty, order the offender to pay by way of compensation to the public authority having the control or management of the public place where the offence was committed, such sum as it considers reasonable to cover the cost of the removal of the litter, and the amount so awarded shall be deemed to be a judgment debt due to the authority from the offender and may be enforced in any manner in which a judgment or order of the court for the payment of a civil debt may be enforced.

Damaging litter bins

14. A person who wilfully damages or destroys a litter bin is guilty of an offence and is liable to a fine not exceeding five hundred dollars and to imprisonment for a period not exceeding 6 months and the court may order that a person convicted under this Section shall pay the cost of restoring the litter bin.

PART IV-PROCEDURES

Institution and conduct of proceedings

15. Proceedings under this Decree may be instituted by a public authority and in any such proceedings the authority may appear before a court by any officer or member of the authority authorised for such purpose by resolution of the authority.

Litter offence notices

16.-(1) A litter prevention officer may, if he believes that a person has committed an offence against Sections 6(a), 6(b), 8 or 9, issue to that person a litter offence notice.

(2) A litter offence notice shall be in the form set out in a form to be prescribed by the Minister responsible for Housing and Urban Development and shall:

- (a) state the place, date and time of the alleged offence;
- (b) describe briefly the nature of the litter concerned;
- (c) state the name and address of the person to whom the notice is issued;
- (d) notify the person to whom the notice is issued when and where the specified penalty may be paid;
- (e) state that if the specified penalty is not paid, proceedings for an offence may be commenced.

(3) If the person to whom a litter offence notice is issued pays the prescribed penalty within 21 days of the issue to him of the notice, no proceedings against him for the offence disclosed in the notice may be commenced or continued.

(4) The prescribed penalty, for the purposes of this section is:

- (a) for an offence against Section 6(a) or 6(b) \$40
- (b) for an offence against Section 8(1):..... \$40
- (c) for an offence against Section 8(2) \$40
- (d) for an offence against Section 9 \$40

(5) The prescribed penalty shall be payable:

- (a) if the Litter Offence Notice was issued by a litter prevention officer, employed by a city or town council or a rural local authority, at the head office of that council or authority;
- (b) if the Litter Offence Notice was issued by any other litter prevention officer at the registry of any magistrates court

(6) Nothing in this section requires a litter prevention officer to issue a litter offence

notice [subject to subsection (3)] hinders the commencement of proceedings for an offence against this Decree.

Evidence

17. In proceedings for an offence against this Decree:

(a) litter which has been deposited shall be presumed to have been abandoned unless the contrary is proved; and

(b) a statement in the complaint that a place referred to therein is a public place is *prima facie* evidence of that fact.

Application of fines etc.

18.-(1) All fines and penalties recovered under this Decree by or on behalf of a city or town council shall be paid into the municipal fund of that city or town.

(2) All fines and penalties recovered under this Decree by or on behalf of a Rural Local Authority shall be paid to that Rural Local Authority.

Decree binds State

19. This Decree binds the State.

Coming into force

20. This Decree shall come into force three months after the date of publication in the *Fiji Republic Gazette*.

Made the 12th day of August 1991.

PENAIA K. GANILAU
President of the Sovereign Democratic Republic
of Fiji and Commander-in-Chief of the Armed Forces

Controlled by the Ministry of Housing and Urban Development
