



I assent.

[L.S.]

K. K. T. MARA
President

[21 October 1996]

AN ACT

TO AMEND THE LITTER DECREE, 1991

ENACTED by the Parliament of Fiji

Short title and commencement

1.—(1) This Act may be cited as the Litter (Amendment) Act, 1996.

(2) This Act shall come into force on a date appointed by the Minister and published in the *Fiji Republic Gazette*.

Interpretation

2. The Litter Decree, 1991 is in this Act referred to as “principal Decree.”

Section “2” amended

3. Section “2” of the principal Decree is amended by inserting the following immediately after and below the definition of “depositing” —

“ “fixed penalty” in relation to a prescribed offence, means the penalty specified in Section 16;

“fixed penalty notice” means a notice in the prescribed form, that complies with subsection (3) of Section 16”.

Section “8” amended

4. Section “8” of the principal Decree is amended—

(a) in subsection “(1)” by—

- (i) deleting the words “not exceeding one thousand dollars” in the third line and substituting the words “of not less than one hundred dollars”;
- (ii) deleting the words “not exceeding two thousand dollars” immediately after the word “fine” in the fourth line and substituting the words “of not less than two hundred dollars”;

(b) in subsection “(2)” by—

- (i) deleting the words “not exceeding four hundred dollars” in the second and third lines and substituting the words “of not less than one hundred dollars”;
- (ii) deleting the words “not exceeding one thousand dollars” in the third line and substituting the words “of not less than two hundred dollars.”

Section “14” amended

5. Section “14” of the principal Decree is amended by inserting the words “or unlawfully removes a litter bin” between the words “bin” and “is” in the first line.

Section “16” repealed and replaced

6. Section “16” of the principal Decree is repealed and replaced with the following:—

“Issue of fixed penalty notice

16.—(1) Notwithstanding the requirements of the Criminal Procedure Code, but subject to the succeeding provisions of this Section, it shall be lawful for an officer to institute proceedings in respect of the alleged commission of an offence against Sections 6(a), 6(b), 8 or 9 by serving personally upon the person alleged by him to have committed the offence a fixed penalty notice.

(2) A fixed penalty notice shall be in a form to be prescribed by the Minister responsible for Urban Development.

(3) A fixed penalty notice 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 fixed penalty may be paid;
- (e) require, in case of default in payment, that the person to whom it is addressed to attend court in answer to the charge stated in the notice at a place and on a date and time not being less than 28 days from the date of the notice, as are specified in the notice unless—
 - (i) not later than 21 days after the date of the notice, payment is made, in accordance with paragraph (d) above;
 - (ii) that person appears in court personally or by a barrister and solicitor or enters a plea of guilty;
- (f) notify the person to whom the notice is issued that, in case of default in payment within the time specified in the notice, the Court may, if the person is found guilty by the Court, impose a penalty which is more than the fixed penalty for the offence and not inconsistent with Sections 6, 8 and 9 of this Decree;
- (g) bear the date of which it was served on the person charged.

(4) A fixed penalty notice shall not be served upon a person more than 14 days after the date on which the offence is alleged to have been committed.

(5) An officer by whom a fixed penalty notice is issued shall cause a signed copy of that notice to be placed before the court specified in the notice not later than 7 days after the date of the notice.

(6) For the purpose of this Section the fixed penalty shall be:

- (a) for an offence against Section 6(a) or 6(b).... — \$40-00;
- (b) for an offence against Section 8(1)..... — \$40-00;
- (c) for an offence against Section 8(2)..... — \$40-00;
- (d) for an offence against Section 9..... — \$40-00.

(7) Nothing in this Section shall be taken to prevent the institution of proceedings under the provision of the Criminal Procedure Code.”

New Section "16A"

7. The principal Decree is amended by the addition of a new provision immediately after Section "16" as Section "16A" —

"Procedure consequent upon issue of fixed penalty notice

16A.—(1) Where proceedings are instituted by means of the service upon a person of a fixed penalty notice (in this Section referred to as "the notice"), the following provisions shall apply in relation to the charge set out in the notice (in this Section referred to as "the charge").

(2) Where payment of the fixed penalty that is applicable in relation to the charge is made in accordance with the instructions set out in the notice not later than 21 days after the date of the notice—

(a) the proceedings instituted by the notice shall be deemed to have been dismissed; and

(b) it shall not be lawful for any person to be convicted of the offence as charged in the notice.

(3) Subject to subsection (4), where payment of the fixed penalty is not made as mentioned in subsection (2), the notice shall be regarded for all purposes as a summon issued under the provisions of the Criminal Procedure Code.

(4) In any proceedings, a certificate signed by the Clerk of the Court specified in the notice that payment of the fixed penalty was, or was not made as mentioned in subsection (2) shall, unless the contrary is proved, be conclusive as evidence of the matters stated in that certificate."

Passed by the House of Representatives this Twelfth day of September, in the year of our Lord, One Thousand Nine Hundred and Ninety-Six.

Passed by the Senate this Third day of October, in the year of our Lord One Thousand, Nine Hundred and Ninety-Six.