



[1590]

## GOVERNMENT OF FIJI

LAND TRANSFER (AMENDMENT) DECREE 2011  
(DECREE NO. 45 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 Land Transfer (Amendment) Decree 2011, and shall come into force on the date of its publication in the *Gazette*.

*Section 159 amended*

2. Section 159 of the Land Transfer Act [Cap. 131] is amended by inserting the following new subsections after subsection (5)—

- "(6) Notwithstanding anything contained in this Act, if it appears to the Registrar from any map or plan sub-dividing any land subject to the provisions of this Act that an error or omission has been made in the creation of an easement over a sub-divisional lot and that a memorial to that effect has not been entered on the folium of the register constituted by the instrument of title with respect to any sub-divisional lot, then the Registrar may itself prepare and register a certificate of easement, and shall enter the certificate of easement on the folium of the register constituted by the instrument of title with respect to any sub-divisional lot.
- (7) Any easement created by the Registrar in the exercise of its powers under subsection (6) shall have the same effect and force as any easement created under this Act.
- (8) The Registrar is not required to obtain the consent of any proprietor of any sub-divisional lot, before exercising its powers under subsection (6)
- (9) The Registrar, upon taking any action under subsection (6), shall promptly inform the registered proprietors of any sub-divisional lots which are subject to easement, about the registration of the easement.
- (10) The Registrar shall not be liable to compensate any proprietor or any person affected by the creation of easement on any sub-divisional lot, and any action taken by the Registrar under subsection (6) shall not be challenged in any court of law or tribunal; Provided however, that a person aggrieved by the decision of the Registrar may appeal to the Minister, whose decision on appeal shall be final and may not be challenged in any court of law or tribunal.
- (11) Where any proceeding, claim, challenge, application or dispute of any form whatsoever is brought before any court, tribunal, commission or any other adjudicating body to challenge the decision of the Registrar under subsection (6) or the decision of the Minister under subsection (10), then the presiding judicial officer, without hearing or in any way determining the proceeding or the application, shall immediately transfer the proceeding or the application to the Chief Registrar of the High Court for

the termination of the proceeding or the application, and a certificate to that effect shall be issued by the Chief Registrar of the High Court.

- (12) A certificate under subsection (11) is, for the purposes of any proceedings in a court, tribunal, commission or any other person or body exercising a judicial function, conclusive of the matters stated in the certificate.
- (13) A decision of the Chief Registrar of the High Court to issue a certificate under subsection (11) is not subject to challenge in any court, tribunal, commission or any other adjudicating body."

Given under my hand this 28th day of October 2011.

EPELI NAILATIKAU  
President of the Republic of Fiji