

FAIR TRADING DECREE (AMDT) BILL 2005 Introduced on Friday, July 29, 2005
BILL NO. 15 OF 2005

A BILL

FOR AN ACT TO AMEND THE FAIR TRADING DECREE

ENACTED by the Parliament of the Fiji Islands:

Short title, etc

1. (1) This Act may be cited as the Fair Trading Decree (Amendment) Act 2005.

(2) This Act comes into force on a date appointed by the Minister, by notice in the Gazette.

Amendment to the Decree

2. The Fair Trading Decree 1992 (Decree No. 25 of 1992) is amended:

(a) in subsections (1), (2), (3), (4) and (5) of section 105; and

(b) in subsections (1) and (2) of section 106,

by inserting "or officers of the Commission" after "Inspector" wherever it appears in those subsections.

Attorney Generals Chambers

Suvavou House

Suva.

July 2005

FAIR TRADING (AMENDMENT) BILL 2005

EXPLANATORY NOTE

[This note does not form part of the Bill and intends only to indicate its general effect]

1.0 BACKGROUND

1.1 The Bill seeks to amend the Fair Trading Decree No. 25 of 1992 to include officers of the Commerce Commission in the investigations for complaints against breaches of the Fair Trading Decree 1992.

1.2 Under the Commerce Act 1998, the Commissions functions are to administer provisions of the Decree for which it is empowered to administer and to facilitate the operation of the Fair Trading Decree.

1.3 Accordingly, the functions of the Commission include the functions of considering and granting authorizations and notifications applications, which provide immunity to contraveners of the Decree if the agreements, arrangements or conduct is anti-competitive or places it in a dominating position which is a public benefit, out weighing the public detriment. The Commission is also empowered to seek legal proceedings against contraveners of the Decree.

1.4 The present law provides the Commission with the powers of inspection under Part VIIIA of the Decree but not the power to institute legal proceedings. Although the Commerce Act 1998 allows the Commission to enter into arrangements with other governmental agencies to perform its functions, such arrangements give rise to various practical problems.

1.5 The Department of Fair Trading and Consumer Affairs are authorized inspectors in accordance with the Fair Trading Decree. However given the limited resources and the lack of skills available, the Department is restricted in investigating certain types of complaints under the Decree. Given the highly technical, economical and legal analytical skills necessary to investigate breaches of the Decree and the heavy workload of investigating complaints by the limited number of Officers in the Department, they are not able and capable to assist the Commission.

1.6 The proposed amendment will empower the officers of the Commission with powers of inspectors and with powers to demand information for all breaches of the Decree, therefore will assist the Department in investigating complaints for breach of the Decree.

2.0 CLAUSES

Clause 1 provides for a short title and commencement

Clause 2 amends sections 105 and 106 of the Decree by including officers of the Commission to enforce the provisions of the Decree as well.

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Bill comes under the ministerial responsibility of the Minister for Commerce, Business Development and Investment.

Q. B. BALE

Attorney General

and Minister of Justice