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FIJI AUDIO-VISUAL COMMISSION ACT 2002

**Fiji Audio-Visual Commission
(Licensing of Audio Visual Agents) Regulations 2012**

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FIJI AUDIO-VISUAL COMMISSION ACT 2002

FIJI AUDIO-VISUAL COMMISSION (LICENSING OF AUDIO VISUAL AGENTS)
REGULATIONS 2012

IN exercise of the powers conferred upon me by section 14 (1) (d) of the Fiji Audio-Visual Commission Act 2002, I hereby make these Regulations—

PART 1—PRELIMINARY

Short title

1. These Regulations may be cited as the Fiji Audio-Visual Commission (Licensing of Audio Visual Agents) Regulations 2012.

Commencement

2. These Regulations shall come into force on the date of its publication in the *Gazette*.

Interpretation

3. In these Regulations, unless the context otherwise requires—

- “appellant” means the intended recipient of a reviewable decision under Part 3;
- “audio visual agent” has the meaning provided in regulation 4;
- “audio visual services” includes services provided in regulation 4 (1) (c);
- “Commission” means the Fiji Audio-Visual Commission established under section 3 of the Fiji Audio-Visual Commission Act 2002;
- “company” means a company formed and registered under the Companies Act (Cap. 247);
- “foreign production company” means a non-resident company that is engaged, or intending to be engaged in the making of any embodied material which contains an aggregate of images, or of images and sounds;
- “licence” means an audio visual agent’s licence issued under regulation 6 and “licensee” shall be construed accordingly;
- “Minister” means the Minister responsible for Industry and Trade;
- “Permanent Secretary” means the Permanent Secretary responsible for Industry and Trade;
- “person” shall include an incorporated or unincorporated entity;
- “prescribed fee” means a fee prescribed in Schedule 3;
- “prescribed form” means a form contained either in Schedule 1 or Schedule 2;
- “Regulations” means the Fiji Audio-Visual Commission (Licensing of Audio Visual Agents) Regulations 2012.

Meaning of audio visual agent

4. —(1) Any person shall be deemed to be an audio visual agent if the person—
(a) is a resident of Fiji;

- (b) has a licence pursuant to Part 2 of these Regulations;
- (c) directly provides any services to a foreign production company that is eligible for tax rebate.

(2) Any service provided by a person who is not an audio visual agent can be channelled through a licensed audio visual agent, except the services of lawyers, accountants, architects, engineers and business consultants.

PART 2—LICENSING OF AUDIO VISUAL AGENTS

Application for licence

5.—(1) Every person who desires to obtain a licence under the Regulations shall apply to the Permanent Secretary.

- (2) Every application shall be made in the prescribed form provided in Schedule 1.
- (3) Every application shall be accompanied with the prescribed fee.

Issuing of licence

6.—(1) The Permanent Secretary shall, upon receipt of an application for licence pursuant to regulation 5 (1), issue a licence to the applicant if he or she is satisfied—

- (a) with the merits of the application including the applicant's character and financial position;
- (b) with the ability of the applicant to perform the responsibilities of an audio visual agent and to protect Fiji as a destination for audio visual production; and
- (c) that the application is in the interests of the audio visual industry.

(2) The licence, including any conditions or directions as the Permanent Secretary deems appropriate, shall be issued in the form prescribed in Schedule 4, to the applicant upon payment of the prescribed fee.

Refusing to issue licence

7. If the Permanent Secretary decides not to issue a license to the applicant, the Permanent Secretary shall give written notice of the decision and reasons for the decision to the applicant.

Effect of licence

8. A licence shall authorise the licensee to carry on business as an audio visual agent in—

- (a) any part of Fiji;
- (b) accordance with any condition contained in the licence; and
- (c) accordance with any other condition imposed by the Permanent Secretary from time to time.

Duration of licence

9. Subject to regulation 12, a licence shall remain in force for a period of 2 years from the date of issue of the licence.

Renewal of licence

10.—(1) An application for the renewal of a licence shall be made in the prescribed form provided in Schedule 2 and accompanied by the prescribed fee, to the Permanent Secretary not later than 2 months preceding the date of expiry of the licence.

(2) The Permanent Secretary will consider the application for renewal of the licence and decide either to—

- (a) grant the renewal of the licence including any condition or conditions imposed by him or her to the applicant with the prescribed fee; or
- (b) refuse the renewal of the licence and give written notice and reasons for the decision, to the applicant.

(3) An application for the renewal of a licence shall be accompanied by—

- (a) a detailed statement of the audio visual services that was carried out by the applicant since the issuing of the existing licence; and
- (b) any other matter which the applicant wishes the Permanent Secretary to consider.

(4) If the application for the renewal of a licence is made after the date of expiry of the licence, then the applicant shall provide a written explanation of the delay to the Permanent Secretary, accompanied with the prescribed penalty fee.

(5) The Permanent Secretary shall consider the reasonableness of the cause of delay and shall decide either to—

- (a) grant the renewal of the licence including any condition or conditions imposed by him or her to the applicant with the prescribed fee; or
- (b) refuse the renewal of the licence and give written notice and reasons for the decision, to the applicant.

Suspension of licence

11.—(1) The Permanent Secretary may, after exercising its own discretion, suspend a licence for a period as he or she deems appropriate.

(2) The licence is suspended once the Permanent Secretary issues a written notice and reasons for his or her decision, to the licensee.

(3) Once the licensee receives the written notice from the Permanent Secretary, he or she shall immediately return the licence to the Permanent Secretary upon which the Permanent Secretary shall endorse on the Register, the date on which the notice is received.

(4) The licensee shall cease to operate as an audio visual agent upon receipt of the written notice.

(5) The licence will have effect once the suspension period has expired and will be returned to the licensee.

Revocation of licence

12.—(1) The Permanent Secretary may, after exercising his or her own discretion, revoke a licence.

(2) The Permanent Secretary may also revoke a licence if he or she is reasonably satisfied that—

- (a) within the duration of the licence, the licensee has been convicted by a Court of Law in Fiji for a dishonest, fraudulent or corrupt related offence;

- (b) the licensee had not complied with the conditions of the licence;
- (c) the issue of the licence was obtained by dishonest, fraudulent or corrupt purposes; or
- (d) the licensee had used the licence for or in relation to dishonest, fraudulent or corrupt purposes.

(3) The licence is revoked once the Permanent Secretary gives a written notice and reasons for his or her decision to the licensee.

(4) Once the licensee receives the written notice from the Permanent Secretary, he or she shall immediately return the licence to the Permanent Secretary upon which the Permanent Secretary shall endorse on the Register, the date on which the notice is received.

(5) The licensee shall cease to operate as an audio visual agent upon receipt of the written notice.

Variation of conditions of licence

13.—(1) The licensee may make a written application to the Permanent Secretary accompanied with the prescribed fee, for variation of the conditions of the licence.

(2) The Permanent Secretary shall consider the merits of the written application including the applicant's character, financial position and the interests of the audio visual industry and may either—

- (a) vary the conditions; or
- (b) refuse to vary the conditions and give written notice and reasons for the decision to the licensee.

Register

14.—(1) The Permanent Secretary shall establish and maintain a Register of audio visual agents.

(2) The Register shall be open to inspection by the public during normal office hours and can be viewed by any member of the public upon payment of the prescribed fee.

Voluntary surrender of licence

15.—(1) A licensee may, at any time surrender his or her licence by forwarding a written notice to that effect, together with the licence, to the Permanent Secretary.

(2) The Permanent Secretary shall endorse on the notice and the Register, the date on which the notice is received, and the licence shall, as from that date, cease to have effect.

PART 3—APPEAL

Right of appeal

16.—(1) Any person may appeal, subject to the provisions of these Regulations, to the Minister against a reviewable decision of the Permanent Secretary.

(2) A reviewable decision under these Regulations shall include the—

- (a) refusal to issue a licence;
- (b) refusal to renew a licence;
- (c) revocation of a licence; or
- (d) variation of the conditions of a licence.

Lodging of appeal

17.—(1) Any appeal made under these Regulations shall be made within 28 days of notification of the decision to the appellant except where the Minister may, for good cause extend the said period of 28 days.

(2) An appeal by an applicant under these Regulations shall be sent to the Minister and shall—

- (a) be in writing;
- (b) set out clearly and concisely the grounds for the appellant's dissatisfaction with the decision appealed against; and
- (c) be accompanied with the prescribed fee.

Minister to inquire

18. The Minister shall upon receiving a copy of the appeal under regulation 17, refer a copy of it to the Permanent Secretary within 7 days and request a statement of the reasons from the Permanent Secretary for the decision appealed against.

Permanent Secretary to respond

19. The Permanent Secretary shall, within 14 days of receiving a copy of an appeal under regulation 18, give to the Minister, a statement in writing, setting out the reasons for the decision appealed against.

Decision of Minister

20.—(1) The Minister shall, within 14 days of receipt of the Permanent Secretary's written statement under regulation 19, either—

- (a) affirm the Permanent Secretary's decision;
- (b) vary the Permanent Secretary's decision; or
- (c) set aside the Permanent Secretary's decision and make a new decision in its place.

(2) The Minister shall, as soon as possible after an appeal has been determined, forward the decision in writing to the appellant.

(3) The decision of the Minister on an appeal made under these Regulations shall be final and there shall be no further appeal.

PART 4—MISCELLANEOUS

Fees

21.—(1) The Minister shall have the power to amend or revoke the Table of Prescribed Fees provided in Schedule 3, by notice in the *Gazette*.

(2) The Minister shall have the power to exempt any person from paying any of the prescribed fees.

Directions

22. The Permanent Secretary may have the power to give directions and prescribe rules with respect to the licensing of audio visual agents.

SCHEDULE 1

Application for Licence
(Regulation 5 (2))

Information About The Applicant
[PRINT IN BLOCK LETTERS]

1. Name of Applicant:	2. Business Address:		
3. Residential Address:	4. Postal Address:		
5. Telephone No.:	6. Mobile No.:		
7. Facsimile No.:	8. Email:		
9. Tax Identification No. (TIN):	10. Are you an undischarged bankrupt, or in the case of a company, is there any winding-up action pending? <div style="text-align: center;"> <table border="1"> <tr> <td data-bbox="776 934 877 982">Yes</td> <td data-bbox="877 934 978 982">No</td> </tr> </table> </div>	Yes	No
Yes	No		
11. Names and Registered Address of Directors/Shareholders (in the case of a company):			
12. Police Record (provide details of any conviction, or in the case of a company, details of any conviction of the Directors):			

13. Please list 2 referees and their contact details:

<u>Referees:</u>	<u>Contact:</u>
1.
2.

14. Any other relevant information which the applicant wishes to be considered:

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Confidentiality

Please note all information provided by the applicant will be held on a strict commercial-in-confidence basis.

Declaration

I, do hereby apply for an **Audio Visual Licence**.

(Full name of applicant)

I hereby declare that the information on this application form and the accompanying documentation are true and correct.

Signed:

Date:

I,,

(Full name of witness)

(Occupation)

do hereby confirm that the applicant signed the application before me and that the applicant fully understands its contents.

Signed:

Date:

Note:

<u>Witness should be one of the following:</u>
1) Notary Public
2) Commissioner for Oaths
3) Lawyer
4) Doctor
5) Bank Officer
6) Senior Government Official/Public Servant
7) Justice of Peace

SCHEDULE 2

Renewal of Licence
(Regulation 10 (1))

PART A: Information About The Applicant
[PRINT IN BLOCK LETTERS]

1. Name of Applicant:	
[IF ANY OF THE FOLLOWING HAS CHANGED, PLEASE FILL IN]	
2. Business Address:	3. Postal Address:
4. Residential Address:	5. Telephone No.: 6. Mobile No.:
7. Facsimile:	8. Email:
9. Date of Expiry of Existing Licence:	

PART B: Documents To Be Attached

- A detailed statement of the audio visual works that were carried out by the applicant since the issuance of the existing licence.
- A document containing any other matters which the applicant wishes to be considered.

Confidentiality

Please note all information provided by the applicant will be held on a strict commercial-in-confidence basis.

Declaration

I, do hereby apply for an **Audio Visual Licence**.
(Full name of applicant)

I hereby declare that the information on this application form and the accompanying documentation are true and correct.

Signed:

Date:

I,,
(Full name of witness) **(Occupation)**

do hereby confirm that the applicant signed the application before me and that the applicant fully understands its contents.

Signed:

Date:

Note:

<u>Witness should be one of the following:</u>
1) Notary Public
2) Commissioner for Oaths
3) Lawyer
4) Doctor
5) Bank Officer
6) Senior Government Official/Public Servant
7) Justice of Peace

SCHEDULE 3**Table of Prescribed Fees**

The fees prescribed for the Regulations are set out in the following table-

	Fees (\$)
1. Application for licence under regulation 5 (3)	300 (plus VAT)
2. Issuing of licence under regulation 6 (3)	1,000 (plus VAT)
3. Application for renewal under regulation 10 (1)	100 (plus VAT)
4. Renewal of licence under regulation 10 (2) (a)	1,000 (plus VAT)
5. Penalty for late application under regulation 10 (4)	100 (plus VAT)
6. Renewal of licence under regulation 10 (5) (a)	1,000 (plus VAT)
7. Application for variation under regulation 13 (1)	40 (plus VAT)
8. Inspection under regulation 14 (2)	40 (plus VAT)
9. Lodgment of appeal under regulation 17 (2) (c)	40 (plus VAT)

SCHEDULE 4

Licence

LICENCE NO.



FIJI AUDIO-VISUAL COMMISSION ACT 2002

AUDIO VISUAL AGENT LICENCE

This is to certify that
is licensed as an AUDIO VISUAL AGENT, pursuant to the Fiji Audio-
Visual Commission (Licensing of Audio Visual Agents) Regulations 2012
for a period of 2 years from the date of this Licence.

DATED this day of, 20.....

.....
Permanent Secretary for Industry and Trade

SPECIAL CONDITIONS

Dated at Suva this 14th day of March 2012.

A. SAYED-KHAIYUM
Attorney-General and Minister for
Justice, Anti-Corruption, Public Enterprises, Civil
Aviation, Communications, Tourism, Industry and Trade