

BILL NO. 8 OF 2017

A BILL

FOR AN ACT TO AMEND THE LAND TRANSPORT ACT 1998

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.**—(1) This Act may be cited as the Land Transport (Amendment) Act 2017.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.
- (3) In this Act, the Land Transport Act 1998 is referred to as the “Principal Act”.

Section 82 amended

- 2.** Section 82(2)(b) of the Principal Act is amended by deleting “92(2)” and substituting “92(3) and (4)”.

*Section 85 amended***3.** Section 85 of the Principal Act is amended by—

(a) in subsection (3), inserting the following after “offence”—

“by providing a statutory declaration stating that at the time of the occurrence of the offence—

(a) the motor vehicle was being driven by some other person without his or her knowledge or consent;

(b) the motor vehicle was in the charge of another person and stating the name and address of that person; or

(c) the person did not own the motor vehicle”; and

(b) deleting subsections (4) to (7).

*Section 85A amended***4.** Section 85A(3) of the Principal Act is amended by deleting “21 days” and substituting “12 months”.*Section 92 substituted***5.** The Principal Act is amended by deleting section 92 and substituting the following—*“Proceedings for Traffic Infringement Notices*

92.—(1) Notwithstanding the other requirements of this Part, but subject to the provisions of this section, a police officer or authorised officer may institute proceedings in respect of the alleged commission of a prescribed offence—

(a) by serving personally upon the person alleged by him or her to have committed the offence, a Traffic Infringement Notice;

(b) where the presence, at any time or for any period of time, of a motor vehicle in a place is evidence of the commission of the offence, by affixing a Traffic Infringement Notice to the vehicle in a conspicuous position; or

(c) by serving through any other means as prescribed.

(2) A Traffic Infringement Notice must be issued and despatched by the Authority within 21 days from the date the offence is committed and any Traffic Infringement Notice issued or despatched beyond this period is deemed invalid.

(3) A person to whom a Traffic Infringement Notice is issued is liable to a prescribed penalty and must, within 90 days from the date the Traffic Infringement Notice is issued, undertake one of the following actions—

(a) pay the fixed penalty in a single payment or by instalments;

(b) make a statutory declaration to the Authority under section 85(3) or 85A(2); or

(c) elect to dispute the fixed penalty in court.

(4) If a person to whom a Traffic Infringement Notice is issued does not undertake any of the actions in subsection (3) within the prescribed period, the person shall be—

- (a) liable to a prescribed fee in addition to the fixed penalty;
- (b) issued a departure prohibition order preventing the person from leaving Fiji; and
- (c) ineligible for the renewal of the person’s licence or vehicle registration, until the person—
 - (i) pays the fixed penalty and the additional prescribed fee in a single payment or by instalments;
 - (ii) makes a statutory declaration to the Authority under section 85(3) or 85A(2); or
 - (iii) elects to dispute the fixed penalty in court.

(5) If a person to whom a Traffic Infringement Notice is issued does not undertake any of the actions provided in subsection (4) within 12 months from the date the Traffic Infringement Notice is issued, the Traffic Infringement Notice takes effect as a conviction and the Authority may—

- (a) suspend the person’s licence; and
- (b) seek from the court a sentence providing for the issuance of demerit points and maximum penalties for the offence.

(6) If a person to whom a Traffic Infringement Notice is issued makes a statutory declaration to the Authority under subsection (3) or (4) and the Authority accepts the contents of the declaration, the Authority may issue a withdrawal notice to the person with the effect of withdrawing the Traffic Infringement Notice.”

Section 93 substituted

6. The Principal Act is amended by deleting section 93 and substituting the following—

“Transitional

93.—(1) All Traffic Infringement Notices issued prior to the commencement of the Land Transport (Amendment) Act 2017 are deemed to have been issued at the date of the commencement of the Land Transport (Amendment) Act 2017 in accordance with section 92.

(2) All proceedings instituted in relation to Traffic Infringement Notices in any court prior to the commencement of the Land Transport (Amendment) Act 2017 are deemed to be withdrawn.

(3) Any person to whom a Traffic Infringement Notice is deemed to have been issued under this section shall be subject to the process set out in section 92.”

Section 113 amended

7. Section 113(6) of the Principal Act is amended by—

- (a) in paragraph (g), deleting “.” and substituting “; and”; and
- (b) inserting the following new paragraph after paragraph (g)—
 - “(h) prescribe all matters relating to Traffic Infringement Notices that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.”.

LAND TRANSPORT (AMENDMENT) BILL 2017

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 In 2013, the Land Transport Authority (**‘Authority’**) introduced photographic detection devices or speed cameras to better monitor and safeguard road users and in 2016, an additional 6 speed cameras to the existing 5 that were already in operation.
- 1.2 The advent of photographic detection devices has brought to light the inability of the Authority to issue Traffic Infringement Notices (**‘TINs’**).
- 1.3 The inability of the Authority to comply with the legal provisions has led to recent complaints by members of the public. As such, there is an urgent need for a review of the current TIN processes.
- 1.4 The Land Transport (Amendment) Bill 2017 (**‘Bill’**) therefore seeks to amend the Land Transport Act 1998 (**‘Act’**) to provide for a more efficient regulatory framework for the processing of TINs and to introduce a system which is consumer friendly, builds public confidence and provides sufficient time for the Authority to issue TINs and for members of the public to enforce their legal rights.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister.
- 2.2 Clause 2 of the Bill amends section 82(2)(b) of the Act to align the provision to the payment of a fixed penalty which will now be due either at the end of the 90-day period or at the end of the 12-month period from the date of issuance of a TIN.
- 2.3 Clause 3 of the Bill essentially amends section 85 of the Act by deleting subsections (4) to (7) which become obsolete as a result of the new section 92.

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- 2.4 Clause 4 of the Bill amends section 85A(3) of the Act by extending the time a person has to pay a fixed penalty from 21 days to 12 months.
- 2.5 Clause 5 of the Bill deletes section 92 of the Act and introduces a new provision outlining proceedings for TINs where the Authority must issue a TIN within 21 days from the date of an offence.
- 2.6 Clause 5 of the Bill also provides that upon being issued a TIN, a person has 90 days within which that person can pay the fixed penalty, make a statutory declaration or elect to dispute the fixed penalty in court.
- 2.7 However, if no such action is taken within the 90-day period, the person is prohibited from having their licence or vehicle registration renewed, and a departure prohibition order is also issued against the person.
- 2.8 The person then becomes liable to pay the fixed penalty with an additional prescribed fee or can make a statutory declaration to the Authority under section 85(3) or 85A(2), or elect to dispute the fixed penalty in court. The person in this instance has essentially 12 months from the date the TIN is issued to do this.
- 2.9 In the event that the 12-month period expires and the person issued a TIN has not done any such act or payment, the Authority can then suspend the person's licence and take the matter to court which may award demerit points in addition to any maximum penalty.
- 2.10 Lastly, clause 5 of the Bill provides that the Authority may issue a withdrawal notice where a statutory declaration has been made to the Authority in the prescribed period and the Authority has accepted the statutory declaration following which the TIN is withdrawn and re-issued to a different person as the case may be.
- 2.11 Clause 6 of the Bill deletes section 93 of the Act and substitutes a transitional provision to cater for current TINs issued or proceedings currently before the courts in relation to TINs, whereby such TINs are deemed to have been issued under the Act as amended, for the purposes of streamlining TIN proceedings and processes.
- 2.12 Clause 7 of the Bill amends section 113 of the Act to empower the Minister to prescribe regulations in relation to TINs.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for land transport.

A. SAYED-KHAIYUM
Attorney-General