



Superyacht Charter (Budget Amendment) Bill 2017

Bill No. 17 of 2017

Introduction

The **Superyacht Charter (Budget Amendment) Bill 2017** ('Bill') seeks to amend the *Superyacht Charter Act 2010*¹ ('the Act').

Objectives, scope and intent of the Bill

The Minister for Economy announced in his Budget Address on 29 June 2017 that the **current 12.5% superyacht charter fee would be abolished and replaced with the new 10% Environmental and Climate Adaptation Levy (ECAL)** (which replaces the current Environmental Levy).

This Bill amends the *Superyacht Charter Act 2010* to abolish the superyacht charter fee and replaced it with the ECAL, and increases penalties for some offences in the principal Act.

Summary of provisions

Clause 1 states that the provision will come into force on 1 August 2017.

Clause 2 amends the principal Act by deleting the current definition of 'superyacht chart fee', and insert:

"Environment and Climate Adaptation Levy' means the levy prescribed under section 2 of the Environment and Climate Adaptation Levy Act 2015 and charged on the gross charter fee which is payable to the Government of the Republic of Fiji in Fijian dollars as set out in the Schedule."

Clause 3 replaces a specific reference to 'fees' with the word 'levies'.

Clause 4 amends section 14 of the principal Act by deleting "must, pay the superyacht charter fee as mentioned in the Schedule to the Fiji Revenue and Customs Authority" and substitutes it with "must pay the Environment and Climate Adaptation Levy, as set out in the Schedule, to the Fiji Revenue and Customs Authority".

Clause 5 removes a specific reference to 'fees' and replaces them with levies, and correct some minor grammatical errors.

Clause 6 amends the principal Act as follows to increase the penalties for knowingly submitting misleading or deceptive documents (deletions are struck out, amendments in bold):

Misleading and deceptive documents

17. A person must not knowingly submit a document to the Chief Executive Officer, either directly or through a Recognised Superyacht Agent, which is in any way misleading or deceptive.

Penalty: A fine not exceeding \$250,000.00 or imprisonment for ~~1 year~~ **a term not exceeding 10 years**.

Clause 7 amends section 18 of the principal Act to increase penalties for breaching permit conditions:

¹ The *Superyacht Charter Decree 2010* is available at: http://www.pacii.org/cgi-bin/sinodisp/fj/promu/promu_dec/scd2010226/scd2010226.html?stem=&synonyms=&query=yacht

*Breach of Permit conditions*

18. A Recognised Superyacht Agent or a Vessel Owner must not breach the conditions of a Permit.

Penalty: A fine not exceeding \$250,000.00 or imprisonment for ~~1 year~~ **a term not exceeding 10 years.**

Clause 8 amends section 19 of the principal Act to increase penalties for recognised superyacht agents who commit the offence of advertising a superyacht charter or engaging in a charter without complying with certain requirements:

Operating without a permit

19. A Recognised Superyacht Agent must not operate on behalf of the Vessel Owner or assist in the operation of a Superyacht in Fiji waters, including undertaking a charter, without a Vessel and/or Superyacht Charter Permit.

Penalty: A fine not exceeding \$250,000.00 or imprisonment for ~~1 year~~ **a term not exceeding 10 years.**

Clause 9 amends section 20 of the principal Act to increase penalties for operating in the Fiji domestic charter market without paying fees:

Operating in the Fiji domestic charter market

20. A Recognised Superyacht Agent must not advertise a Charter or engage in a Charter in Fiji waters where -

(a) the Charter Fee to be paid in FJD is less than \$USD55,000.00;

(b) the Contract is not a Recognised Charter Contract in a standard form recognised by the MYBA (The Yachting Association), American Yacht Charter Association;

(c) the approval is not in accordance with this Decree.

Penalty: A fine not exceeding \$250,000.00 or imprisonment for ~~1 year~~ **a term not exceeding 10 years.**

Clause 10 amends the Schedule to the principal Act by replacing references to the 'Superyacht Charter Fee' with 'Environment and Climate Adaptation Levy'. It also deletes the specified rate of the Superyacht Charter Fee (12.5%) and replaces it with 'Environment and Climate Adaptation Levy, as prescribed'.

Clause 11 removes all references to 'Superyacht Charter Fee' and replaces them with 'Environment and Climate Adaptation Levy'.

Gender analysis

The Bill does not appear have any disproportionate impact on women or men.

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