

Omnibus Electronic Fare Ticketing (Budget Amendment) Bill 2017

Bill No. 28 of 2017

Introduction

The Omnibus Electronic Fare Ticketing (Budget Amendment) Bill 2017 seeks to amend the *Omnibus Electronic Fare Ticketing Act 2014* ('Act'). The objectives of the *Omnibus Electronic Fare Ticketing Act 2014* are to –

- (a) ensure improved collection of revenue and reduce fare evasion and the risks for passengers carrying cash;
- (b) remove revenue losses for omnibus operators and the State; and
- (c) prescribe conditions and enforcement powers in relation to the use of buscards and buscard readers.

The Act comes under the responsibility of the Minister responsible for Communications.

Objectives, scope and intent of the Bill

The Bill amends the Act to ensure the effective implementation of the electronic fare ticketing system for omnibuses.

Summary of provisions

Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on the date the Act comes into force, but no specific date is given.

Clauses 2 and 3 of the Bill amend the long title and short title respectively. If the Bill is passed by Parliament, the Act will be referred to as the **Electronic Fare Ticketing Act 2014**.

Clause 4 of the Bill amends section 2 of the Act by inserting the definition of a "blacklist" and a "disposable buscard" to provide more clarity when reading the Act. The new definitions are as follows:

"blacklist" means the act of disabling the use of a buscard by the solution provider upon receiving proper and valid notification from the—

- (a) registered user of the buscard;**
- (b) Ministry of Education; or**
- (c) Department of Social Welfare;**

"disposable buscard" means a temporary buscard that is purchased by a person and that does not require registration by a solution provider;"

Furthermore, **Clause 4** also amends the definition of a "buscard". Previously, the Act mandated that a buscard store cash value data for at least 10 most recent transactions. This has been amended to at least 9 most recent transactions.

Clause 5 of the Bill amends section 4 of the Act to provide that an omnibus operator must ensure that all omnibuses are fitted and operational with a buscard reader on or before 1 October 2017 and that if the omnibus operator does not comply with this requirement, the omnibus operator is liable for an offence under the Act. The Principal Act is amended as follows (deletions are struck out,



amendments in bold):

4 (1) Subject to sections 10 and 14, an omnibus operator must ensure that all omnibuses are fitted and operational with a buscard reader at a place easily accessible by passengers boarding and disembarking an omnibus ~~within 60 days from the commencement of this Act~~ **on or before 1 October 2017.**

Additionally, **Clause 5** amends section 4 of the Act to provide that if an omnibus operates without a buscard reader on or after 1 October 2017, the omnibus driver must allow a passenger boarding the omnibus to travel on the omnibus without paying for his or her omnibus fare. The Principal Act is amended as follows:

(2) Any omnibus operator who operates an omnibus without a buscard reader which is operational ~~following the expiration of the period specified~~ **on or after 1 October 2017** in subsection (1) commits an offence and is liable upon conviction to a fine not exceeding \$25,000 or imprisonment for a term not exceeding 10 years or both.

(3) If an omnibus operates without a buscard reader **on or after 1 October 2017**, the omnibus driver must allow a passenger boarding the omnibus to travel on the omnibus without paying for his or her omnibus fare, and any omnibus driver who contravenes this subsection commits an offence and is liable upon conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years or both.

Clause 6 of the Bill amends section 5 of the Act to provide that a passenger must ensure that he or she has sufficient funds in his or her buscard to pay for the omnibus fare to his or her destination. The Principal Act is amended as follows (deletions are struck out, amendments in bold):

5 (1) A passenger must ensure that he or she has sufficient funds in his or her buscard **to pay for the omnibus to his or her destination** before boarding an omnibus.

In addition, **Clause 6** amends Section 5 of the Act to provide that a passenger may only use cash or a voucher for the payment of his or her omnibus fare before 1 October 2017. Subsection 4 is amended as follows:

~~(4) Notwithstanding anything contained in this section, a passenger may only use cash or voucher for the payment of his or her omnibus fare within 60 days from the commencement of this Act.~~

(4) Notwithstanding anything contained in this section, no person may use cash or voucher to pay an omnibus fare on or after 1 October 2017.

Furthermore, **Clause 5** (incorrectly written in the Bill's Explanatory Note - should read as **Clause 6**) stipulates that the Minister may prescribe by regulations the circumstances in which a person may use his or her buscard to pay for the omnibus fare of another person. Subsection 5 is amended as follows:

~~(5) Nothing in this Act prevents a person from using his or her buscard to pay omnibus fare of another person.~~

(5) The Minister may prescribe by regulations the circumstances in which a person may use his or her buscard to pay for the omnibus fare of another person.

Clause 7 of the Bill inserts a new section 5A. The new section 5A provides for the issuance of disposable cards by the solution provider, top up issuing agents or omnibus drivers. The new section 5A is as follows:

“Disposable buscards

5A.—(1) A passenger may purchase a disposable buscard from a solution provider, top up issuing agent or an omnibus driver.

(2) The Minister may prescribe the following in the MSR—

- (a) the retail value of the disposable buscards;**
- (b) the terms of expiry of a disposable buscard; and**
- (c) the minimum amount that may be refunded on a disposable buscard to a passenger.**

(3) E-money that is not refunded to a passenger upon the expiry date of a disposable buscard must be transferred by the solution provider to a fund prescribed by regulations for the development of information and communication technologies in Fiji.”

This clause also empowers the Minister to prescribe the minimum standard requirements of a disposable buscard. Furthermore, **clause 7** provides that e-money that is not refunded to a passenger upon the expiry date of a disposable buscard must be transferred by the solution provider to a fund prescribed by regulations for the development of information and communication technologies in Fiji.

Clause 8 of the Bill substitutes section 29 of the Act and makes it mandatory for a solution provider to register a person who is not a subsidised student or subsidised senior citizen or person with disability in order to purchase a buscard. The Principal Act is amended as follows (deletions in strikethrough, amendments in bold):

~~Other passengers~~

~~**29** A person who is not a subsidised student or subsidised senior citizen or person with disability shall not be required by a solution provider to be registered or to provide any information for the purposes of registration in order to purchase a buscard.~~

“Other passengers

29.—(1) No other passengers may be issued with a buscard except upon registration with a solution provider.

(2) A solution provider must register other passengers upon the receipt of all necessary information for the purposes of registration.”

Clause 9 of the Bill substitutes section 33 of the Act and empowers the Minister to make regulations to give effect to the provisions of the Act and to prescribe penalties for any offence. The penalties include a fine not exceeding \$500,000 or a term of imprisonment not exceeding 10 years or both. The Principal Act is amended as follows (deletions are struck out, amendments in bold):

~~Regulations~~

~~**33** The Minister may make Regulations to give effect to the provisions of this Act.~~

“Regulations

33. The Minister may make regulations to give effect to the provisions of this Act and to prescribe the following penalties—



- (a) a fine not exceeding \$500,000;
- (b) a term of imprisonment not exceeding 10 years; or
- (c) both (a) and (b)."

Clause 10 of the Bill amends all written laws and State documents to change all references to the "Omnibus Electronic Fare Ticketing Act 2014" to the "Electronic Fare Ticketing Act 2014". The Principal Act is amended with a new section 36.

"Amendments to references to "Omnibus Electronic Fare Ticketing Act 2014"

36. All written laws and all State documents of any nature whatsoever (including the titles of any written law) are amended by deleting "Omnibus Electronic Fare Ticketing Act 2014" wherever it appears and substituting "Electronic Fare Ticketing Act 2014", unless the context otherwise requires."

Gender Analysis

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

Sources

- Laws of Fiji (2016), *Omnibus Electronic Fare Ticketing Act 2014*, Volume 16, pp 225,021. Hardcopy available at the Parliament Library.
- *Omnibus Electronic Fare Ticketing (Budget Amendment) Bill 2017*, Bill No. 28 of 2017. Available at <http://www.parliament.gov.fj/bills/> [Accessed 4 July 2017]

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