

# BILL NO. 3 OF 2018

## A BILL

FOR AN ACT TO AMEND THE PUBLIC ENTERPRISE ACT 1996

ENACTED by the Parliament of the Republic of Fiji—

*Short title and commencement*

- 1.—(1) This Act may be cited as the Public Enterprise (Amendment) Act 2018.
- (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 Public Enterprise Act 1996 is referred to as the “Principal Act”.

*Section 61 amended*

2. Section 61 of the Principal Act is amended by deleting “only 2 shareholders” and substituting “at least one shareholder”.

*Section 62 amended*

3. Section 62 of the Principal Act is amended by—
  - (a) deleting subsection (1) and substituting the following—

“(1) Subject to section 63, a shareholder in a Government commercial company shall be nominated by the Minister for Economy.”;

- (b) deleting subsections (2) and (3); and
- (c) in subsection (4), deleting “A Minister” and substituting “The Minister for Economy”.

*Section 63 amended*

**4.** Section 63 of the Principal Act is amended by—

- (a) in subsection (1), deleting “Each” and substituting “A”;
- (b) deleting subsection (2); and
- (c) renumbering subsection (1) as section 63.

*Section 64 amended*

**5.** Section 64 of the Principal Act is amended by deleting subsection (2) and substituting the following—

“(2) A shareholder in a Government commercial company holds shares on behalf of the State.”.

*Section 66 amended*

**6.** Section 66 of the Principal Act is amended by deleting “Minister who appointed him or her” wherever it appears and substituting “Minister for Economy”.

*Section 67 amended*

**7.** Section 67(1) of the Principal Act is amended after “the Public Enterprise Minister” by inserting “, the Minister for Economy”.

*Office of the Attorney-General  
Suvavou House  
Suva*

*March 2018*

## **PUBLIC ENTERPRISE (AMENDMENT) BILL 2018**

### **EXPLANATORY NOTE**

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

#### **1.0 BACKGROUND**

- 1.1 The Public Enterprise (Amendment) Bill 2018 (**'Bill'**) seeks to amend the Public Enterprise Act 1996 (**'Act'**).
- 1.2 Section 14 of the Companies Act 2015 (**'Companies Act'**) provides that a company must have at least one shareholder whereas section 61 of the Act provides that a Government commercial company (**'GCC'**) must have only 2 shareholders.
- 1.3 The Bill amends the Act to align the provisions in the Act that relate to the number of shareholders in a GCC to the Companies Act.

#### **2.0 CLAUSES**

- 2.1 Clause 1 of the Bill provides 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 by notice in the Gazette.
- 2.2 Clause 2 of the Bill amends section 61 of the Act to provide that a GCC must have at least one shareholder.
- 2.3 Clause 3 of the Bill amends section 62 of the Act to provide that a shareholder in a GCC must be nominated by the Minister for Economy.
- 2.4 Clause 4 of the Bill amends section 63 of the Act by deleting the requirement that at least one shareholder in a GCC must be a permanent secretary or supervising officer in the Ministry of Public Enterprises.
- 2.5 Clause 5 of the Bill amends section 64 of the Act to provide that a shareholder in a GCC holds shares on behalf of the State.

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- 2.6 Clause 6 of the Bill amends section 66 of the Act to provide that a shareholder in a GCC must, as far as practicable before exercising any right as a shareholder, consult with the Minister for Economy and act in accordance with any general or special direction given to the shareholder in writing by the Minister for Economy.
- 2.7 Clause 7 of the Bill amends section 67 of the Act to include the Minister for Economy as a person who must not be treated as a director of a GCC or any subsidiary or proposed subsidiary of a GCC.

### **3.0 MINISTERIAL RESPONSIBILITY**

- 3.1 The Act comes under the responsibility of the Minister responsible for public enterprises.

A. SAYED-KHAIYUM  
Attorney-General