

# BILL NO. 14 OF 2019

## A BILL

### FOR AN ACT TO AMEND THE CUSTOMS ACT 1986

ENACTED by the Parliament of the Republic of Fiji—

*Short title and commencement*

- 1.—(1) This Act may be cited as the Customs (Budget Amendment) Act 2019.
- (2) This Act comes into force on 1 August 2019.
- (3) In this Act, the Customs Act 1986 is referred to as the “Principal Act”.

*Section 52 amended*

2. Section 52 of the Principal Act is amended by—
  - (a) in subsection (2)—
    - (i) deleting “the Customs Tariff schedule in”;
    - (ii) deleting “12” and substituting “6”; and
    - (iii) deleting “(2)” and substituting “(1)”; and
  - (b) deleting “one year” wherever it appears and substituting “6 months”.

*Section 95E amended*

3. Section 95E of the Principal Act is amended in the heading by deleting “Summons” and substituting “notice”.

*Section 95F inserted*

4. The Principal Act is amended after section 95E by inserting the following new section—

*“Failure to comply with an administrative notice*

95F. A person who, without reasonable cause, fails to comply with a notice issued under section 95E commits an offence and is liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.”.

*Section 96 amended*

5. Section 96 of the Principal Act is amended by—

(a) in subsection (2), deleting “No” and substituting “Subject to subsection (2A), no”;

(b) after subsection (2), inserting the following new subsection—

“(2A) Subsections (2) and (4B) do not apply to a mission, international organisation or international body that is exempt from any duty, fee or other charge in accordance with any written law.”; and

(c) after subsection (4), inserting the following new subsections—

“(4A) The Comptroller must only pay a refund of overpaid duty, fee or other charge to a person under a customs law to the person’s bank account held at a commercial trading bank.

(4B) A claim for a refund under a customs law is not admissible if the person making the claim has failed to—

(a) file an entry in accordance with this Act or provide any documents or information as required under any customs law; and

(b) make a claim within one year of the payment unless the refund is attributable to an error made by the Service.”.

*Section 96A inserted*

6. The Principal Act is amended after section 96 by inserting the following new section—

*“Customs refunds may be set off against duty, fee or other charge payable*

96A.—(1) If the Comptroller is required to pay a refund of overpaid duty, fee or other charge to a person under any customs law, the Comptroller must—

(a) first apply the amount of the refund against any duty, fee or other charge owing by the person under any customs law and then refund the balance; and

- (b) notify the person, or the person’s customs agent or representative, of the decision in paragraph (a) in writing.”.

*Section 101B amended*

**7.** Section 101B of the Principal Act is amended by—

- (a) deleting the heading and substituting “Extension of time to pay duty and penalty”;
- (b) in subsection (1) after “duty”, inserting “or penalties”; and
- (c) in subsection (2)—
  - (i) in paragraph (a), deleting “payment of the duty” and substituting “for payment of the duty or penalty”;
  - (ii) in paragraph (b) after “duty”, inserting “or penalty”; and
  - (iii) in the proviso, deleting “taxpayer” and substituting “importer, exporter or licensee”.

*Section 137C amended*

**8.** Section 137C(a) of the Principal Act is amended by deleting “voluntarily disclosed an error or omission to the Fiji Revenue and Customs Service or sought written advice from the Fiji Revenue and Customs Service before the Fiji Revenue and Customs Service notified the person” and substituting “sought written advice from or voluntarily disclosed an error or omission to the Fiji Revenue and Customs Service within 15 working days after the clearance of the goods and before being notified by the Fiji Revenue and Customs Service”.

*Section 137F amended*

**9.** Section 137F(1) of the Principal Act is amended by deleting “not increase the price of goods unless prior approval of the permanent secretary responsible for finance and the Service obtained” and substituting “notify the permanent secretary responsible for finance of an increase in the price of goods within 15 working days of the increase”.

*Section 139 amended*

**10.** Section 139 of the Principal Act is amended after “\$25, 000” by inserting “, whichever is greater.”.

June 2019

## **CUSTOMS (BUDGET AMENDMENT) BILL 2019**

### **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 Customs Act 1986 (**'Act'**) regulates the mechanisms within which the Fiji Revenue and Customs Service (**'Service'**) administers, among other things the duties chargeable on goods moving in and out of the country, the powers of customs officers under the Act as well as monitoring and compliance issues.
- 1.2 The Customs (Budget Amendment) Bill 2019 (**'Bill'**) seeks to amend the Act to address budgetary policy changes in the 2019-2020 Budget.

#### **2.0 FEATURES OF THE BILL**

- 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 1 August 2019.
- 2.2 Clause 2 of the Bill amends section 52 of the Act to reduce the period of lawfully removing goods from a warehouse from 12 months to 6 months.
- 2.3 Clause 3 of the Bill amends section 95E of the Act with regard to an administrative notice and clause 4 of the Bill inserts a new section 95F to provide a penalty provision for failure to comply with an administrative notice issued under section 95E of the Act.
- 2.4 Clause 5 of the Bill amends the refund provisions under section 96 of the Act to set rules pertaining to refunds. It also inserts a provision for refund claims made by a mission, international organisation or international body that is exempt from duty, fees or other charges under any written law.
- 2.5 Clause 6 of the Bill inserts a new section 96A to allow the Comptroller to deduct the duty, fee or other charge payable by a person under any customs law before paying a refund to that said person.

- 2.6 Clause 7 of the Bill amends section 101B of the Act to allow an importer, exporter or licensee to apply for an extension of time to pay duty or penalties.
- 2.7 Clause 8 of the Bill amends section 137C(a) of the Act by prescribing a 15 working day requirement to persons seeking to rely on the grounds for remission applicable under section 137C(a).
- 2.8 Clause 9 of the Bill amends section 137F of the Act to provide that the permanent secretary responsible for finance is to be notified whenever a producer, manufacturer or supplier who has been granted duty protection increases the price of goods.
- 2.9 Clause 10 of the Bill amends the penalty provision for fraudulent evasion of duty under section 139 of the Act. Section 139 currently provides a fine “not exceeding 3 times the value of the goods or \$25,000”. The proposed amendment changes this to a fine not exceeding 3 times the value of the goods or \$25,000, whichever is greater.

### **3.0 MINISTERIAL RESPONSIBILITY**

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

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Attorney-General