

# BILL NO. 21 OF 2020

## 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 2020.
- (2) This Act comes into force on 1 August 2020.
- (3) In this Act, the Customs Act 1986 is referred to as the “Principal Act”.

*Section 14 amended*

2. Section 14 of the Principal Act is amended after subsection (1) by inserting the following new subsection—

“(1A) The proper officer may refuse clearance of a ship or aircraft arriving in Fiji if the master of the ship or aircraft fails to comply with subsection (1).”.

*Section 94 amended*

3. Section 94 of the Principal Act is amended by—

- (a) in subsection (1), deleting “in an action brought in pursuance of this section” and substituting “under Parts 22A and 23”; and
- (b) deleting subsection (2).

*Section 101A amended*

4. Section 101A of the Principal Act is amended by deleting subsection (4).

*Section 154A amended*

5. Section 154A of the Principal Act is amended by deleting subsection (1) and substituting the following—

“(1) A person may make an application in respect of particular goods specified in the application, to the Comptroller, for a Customs ruling in respect of any one or more of the following matters—

- (a) the tariff classification of those goods under Schedule 2 to the Customs Tariff Act 1986;
- (b) the specified duty concession for those goods under Schedule 2 to the Customs Tariff Act 1986;
- (c) the excise classification of those goods under the schedules to the Excise Act 1986;
- (d) the valuation of those goods under Schedule 1 to the Customs Tariff Act 1986; and
- (e) the rules of origin of those goods.”.

*Section 154C amended*

6. The Principal Act is amended by deleting section 154C and substituting the following—

*“Effect of Customs ruling*

154C.—(1) Subject to section 154D, a Customs ruling in respect of particular goods is conclusive evidence for the purposes of this Act, that the goods—

- (a) have a particular tariff classification under Schedule 2 to the Customs Tariff Act 1986;
- (b) are or are not, as the case may be, subject to a specified duty concession under Schedule 2 to the Customs Tariff Act 1986;
- (c) have a particular excise classification under the schedules to the Excise Act 1986;
- (d) are or are not, as the case may be, valued in accordance with Schedule 1 to the Customs Tariff Act 1986; and
- (e) are or are not, as the case may be, produced or manufactured in accordance with the rules of origin.

(2) Subject to section 154D, a Customs ruling in respect of a particular matter under section 154A(1)(a), (b) and (c), is conclusive evidence for the purposes of this Act and where applicable, the Customs Tariff Act 1986 or Excise Act 1986 in relation to that matter.”.

*Section 154G deleted*

7. The Principal Act is amended by deleting section 154G.

*Part 22A inserted*

8. The Principal Act is amended after section 173 by inserting the following new Part—

“PART 22A—REVIEW OF DECISIONS

173A.—(1) Except for a decision by the Comptroller that may be appealed to the Minister under this Act or any other limitation prescribed under this Act, a person dissatisfied with any other decision of the Comptroller may lodge an objection to the decision with the Comptroller within 20 working days of service of the notice of the decision.

(2) If the decision to which an objection relates is an amended assessment under section 101A, an importer, exporter or licensee’s right to object to the amended assessment is limited to the alterations and additions made in the amended assessment.

(3) If the decision to which an objection relates is an amended Customs ruling under section 154E, a person’s right to object is limited to the alterations and additions made in the amended Customs ruling.

(4) An objection must be lodged in the approved form stating fully and in detail the grounds upon which the person objecting relies to support the objection and the approved form must be signed by the applicant.

(5) A person may apply, in writing, to the Comptroller for an extension of time to lodge an objection and the Comptroller may, if satisfied that there is reasonable cause, grant an application under this section and must serve notice of the decision on the person.

(6) The Comptroller may require the person to provide additional information relevant to the objection.

(7) Subject to subsection (8), the Comptroller must consider the objection and either allow the objection in whole or part, or disallow it, and the Comptroller’s decision is referred to as an objection decision.

(8) The Comptroller must serve notice of the objection decision on the person objecting no later than 20 working days after lodgment of the objection, or where additional information has been sought in accordance with subsection (5), 20 working days after receipt of such additional information.

(9) If no objection to a decision is lodged with the Comptroller within the time for objecting under subsection (1) or, when such time is extended by the Comptroller, within the extended time, the decision is treated as valid and binding upon the applicant subject to any defect, error or omission that may have been made in the decision or in any proceeding relating to the decision required by customs laws.

173B. A person dissatisfied with an objection decision may, within 20 working days of service of notice of the decision —

- (a) in the case of a matter in respect of which appeals may be heard by the Court of Review in accordance with section 174, appeal the decision to the Court of Review; and
- (b) in the case of any other matter, appeal the decision to a court of competent jurisdiction.”.

July 2020

## **CUSTOMS (BUDGET AMENDMENT) BILL 2020**

### **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 (Budget Amendment) Bill 2020 (**‘Bill’**) seeks to amend the Customs Act 1986 (**‘Act’**) to address budgetary policy changes in the 2020-2021 Budget.

#### **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 1 August 2020.
- 2.2 Clause 2 of the Bill amends section 14 of the Act to empower a proper officer to refuse clearance of any ship or aircraft arriving in Fiji if the master of the ship or aircraft fails to comply with the procedures in relation to arrival in Fiji outlined in that section.
- 2.3 Clauses 3 and 4 of the Bill amend sections 94 and 101A of the Act respectively, to align the mechanism for the review of decisions by the Comptroller under those sections with the new process for the review of decisions by the Comptroller outlined in clause 8 of the Bill.
- 2.4 Clauses 5 and 6 of the Bill amend sections 154A and 154C of the Act respectively, to provide clarity in relation to an application for a Customs ruling and the effect of a Customs ruling by correcting cross referencing errors.
- 2.5 Clause 7 of the Bill amends the Act by deleting section 154G to align the mechanism for the review of decisions by the Comptroller in relation to customs rulings with the new process for the review of decisions by the Comptroller as outlined in clause 8 of the Bill.
- 2.6 Clause 8 of the Bill amends the Act by inserting a new Part 22A to outline the new review mechanism for decisions of the Comptroller. Essentially, the new Part 22A provides that, except for a decision of the Comptroller that may be

appealed to the Minister under this Act or any other limitation prescribed under the Act, a person dissatisfied with any other decision of the Comptroller may lodge an objection to the decision with the Comptroller.

2.7 Clause 8 of the Bill also provides that if a person is still dissatisfied with the reviewed decision of the Comptroller, the person may appeal the reviewed decision to the Court of Review or a court of competent jurisdiction, as applicable.

### **3.0 MINISTERIAL RESPONSIBILITY**

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

A. SAYED-KHAIYUM  
Attorney-General