

BILL NO. 28 OF 2021

A BILL

FOR AN ACT TO AMEND THE LAND TRANSPORT ACT 1998

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Land Transport (Budget Amendment) Act 2021.
- (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 Land Transport Act 1998 is referred to as the “Principal Act”.

Section 2 amended

2. Section 2 of the Principal Act is amended by—
 - (a) in the definition of “parking place” after “taxi”, inserting “rank or”;
 - (b) after the definition of “public street”, inserting the following new definition—

““rank” when used in relation to a parking place for taxis means a parking area provided by the appropriate council or highway authority for use by taxis;”;

and

- (c) in the definition of “stand”, deleting “parking area provided by the appropriate council or highway authority” and substituting “privately owned parking area approved by the Authority”.

Sections 24B and 24C inserted

3. The Principal Act is amended after section 24A by inserting the following new sections—

“Public Service Vehicle Levy

24B.—(1) The Public Service Vehicle Levy at a rate prescribed by regulations is to be paid by public service vehicle permit holders, except for rental permit holders.

(2) The Public Service Vehicle Levy must be paid annually before registering or renewing the registration of a public service vehicle.

(3) Notwithstanding section 24, the Public Service Vehicle Levy must be collected by the Authority and paid into the Public Service Vehicle Trust Fund established under section 24C.

Public Service Vehicle Trust Fund

24C.—(1) This section establishes a fund to be known as the Public Service Vehicle Trust Fund for the maintenance, upgrade and development of public service transport facilities, including stations, ranks, bases and stands provided by the appropriate council or highway authority.

(2) The Public Service Vehicle Trust Fund consists of—

- (a) the Public Service Vehicle Levy payable under section 24B;
- (b) all interest and other income derived from the money and investments comprising the Public Service Vehicle Trust Fund;
- (c) any money which may be appropriated by Parliament for the Public Service Vehicle Trust Fund; and
- (d) any money received by the Public Service Vehicle Trust Fund under any written law.

(3) The Public Service Vehicle Trust Fund is to be administered and managed by the permanent secretary responsible for finance.

(4) The permanent secretary responsible for finance must cause proper accounts to be kept and must, as soon as practicable after the end of each financial year, cause to be prepared for that financial year a trust account statement of receipts and payments of the Public Service Vehicle Trust Fund.

(5) The permanent secretary responsible for finance must cause the trust account statement of receipts and payments to be audited by the Auditor-General.

(6) The permanent secretary responsible for finance must, as soon as practicable, send a copy of the trust account statement of receipts and payments and a copy of the Auditor-General’s report to the Minister.”.

Section 34 amended

4. Section 34(1) of the Principal Act is amended by—
- (a) in paragraph (c) after “;”, inserting “or”; and
 - (b) deleting paragraph (d).

Section 39 amended

5. Section 39(2) of the Principal Act is amended by—
- (a) in paragraph (a) after “;”, inserting “and”; and
 - (b) deleting paragraph (b).

Section 53 amended

6. Section 53 of the Principal Act is amended by—
- (a) in subsection (1)(b)—
 - (i) in paragraph (i) after “;”, deleting “and”; and
 - (ii) deleting paragraph (ii) and inserting the following new paragraphs—
 - “(ii) authorises the use of a motor vehicle exempted under section 61(2) for the carriage of goods in relation to the principal activity of the owner, subject to this Act and the conditions of the licence; and
 - (iii) limits the carriage of passengers to—
 - (A) *bona fide* employees and persons directly involved in the carrying on of the business of the owner;
 - (B) *bona fide* employees and persons directly involved in the carrying on of the principal activity of the owner;
 - (C) patrons or guests of the business; or
 - (D) students, assisted persons or adherents of the principal activity of the owner;”; and
 - (b) after subsection (1), inserting the following new subsection—
 - “(1A) For the purposes of subsection (1)(b), principal activity includes the operation of a school, charitable or religious organisation or similar institution but does not include any commercial activity as may be determined by the Authority.”.

Section 65 amended

7. Section 65 of the Principal Act is amended by—
- (a) in subsection (2)(a), deleting “base for which it is issued, or from an approved stand outside that base, for the carriage of passengers within, from or to that base” and substituting “zone for which it is issued, for the carriage of passengers within, from or to that zone”; and

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

“(5) Where a police officer or authorised officer has reasonable cause to suspect that a person has committed an offence under subsection (4), the officer may seize and remove to a place of safe custody the motor vehicle used in the commission of the offence.

(6) If the person is convicted of the offence, the Authority may cause the motor vehicle to be sold by auction or by public tender in a manner prescribed by regulations.”.

Section 67 amended

8. Section 67(1) of the Principal Act is amended after “marking” by inserting “ranks,”.

Section 113 amended

9. Section 113(4)(q) of the Principal Act is amended after “bases,” by inserting “zones”.

July 2021

LAND TRANSPORT (BUDGET AMENDMENT) BILL 2021

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 Land Transport Act 1998 (**‘Act’**) was enacted in 1998 to establish the Land Transport Authority (**‘LTA’**), to regulate the registration and use of vehicles, the licensing of drivers of vehicles and the enforcement of traffic laws and related matters.
- 1.2 The Land Transport (Budget Amendment) Bill 2021 (**‘Bill’**) seeks to amend the Act to achieve the following key policy objectives:
- (a) establish a new framework for taxi operations by removing municipal taxi bases and stands and replacing them with open taxi ranks, which will allow taxis to operate more efficiently;
 - (b) impose the Public Service Vehicle Levy (**‘Levy’**) to be paid into a trust fund to be known as the Public Service Vehicle Trust Fund (**‘Fund’**) for the maintenance, upgrade and development of public service transport facilities, including stations, ranks, bases and stands provided by the appropriate council or highway authority;
 - (c) strengthen the enforcement powers of LTA in relation to private vehicles illegally operating as public service vehicles and public service permit holders breaching their permit conditions, by allowing LTA to auction off seized vehicles used in relation to such breaches of the Act, after conviction;
 - (d) allow for the changing of records held by LTA without charging a fee;
 - (e) address a lacuna in the Act which does not expressly provide for the registration of charitable and religious organisations and educational institutions under commercial vehicle licences; and
 - (f) address a lacuna in the Act which currently prevents the carriage of patrons of businesses in vehicles registered under commercial vehicle licences.

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 a date or dates appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill amends section 2 of the Act to align the definitions of “parking place” and “stand” to the new terminology to be used for open taxi ranks. Clause 2 also amends section 2 to insert the definition of “rank”.
- 2.3 Clause 3 of the Bill amends the Act to insert sections 24B and 24C. Section 24B sets out the Levy, which is a fee to be paid by all public service vehicle permit holders, except for rental permit holders. The Levy is to be prescribed by regulations made under the Act. Section 24C establishes the Fund, where the Levy is to be paid. The Fund is set up to provide for the maintenance, upgrade and development of public service transport facilities, stations, ranks, bases and stands provided by the appropriate council or highway authority.
- 2.4 Clauses 4 and 5 of the Bill amend sections 34 and 39 of the Act respectively to remove the requirement that fees be charged to change records held by LTA.
- 2.5 Clause 6 of the Bill amends section 53 of the Act to extend commercial motor vehicle licences to charitable and religious organisations and educational institutions and to allow for the carriage of the patrons of businesses.
- 2.6 Clause 7 of the Bill amends section 65 of the Act to empower LTA to seize and auction motor vehicles that have been used in the commission of an offence under section 65(4). These are offences involving the use of a motor vehicle without the required public service permit or contrary to the conditions of a public service permit. However, the sale may only be conducted after the accused person has been convicted.
- 2.7 Clause 8 of the Bill amends section 67 of the Act to provide for the marking of new open taxi ranks.
- 2.8 Clause 9 of the Bill amends section 113 of the Act to provide clarity as to the establishment of taxi zones.

3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General