

BILL NO. 9 OF 2017

A BILL

FOR AN ACT TO AMEND THE EMPLOYMENT RELATIONS ACT 2007

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Employment Relations (Amendment) Act 2017.
- (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 Employment Relations Act 2007 is referred to as the “Principal Act”.

Section 204 amended

2. Section 204 of the Principal Act is amended by—

- (a) in subsection (2), deleting “Minister” and substituting “Chief Justice”; and
- (b) deleting subsection (3).

Section 205 amended

3. Section 205 of the Principal Act is amended by deleting “Minister” and substituting “Chief Justice”.

Section 207 amended

4. Section 207 of the Principal Act is amended by deleting “Minister” wherever it appears and substituting “Chief Justice”.

Section 208 substituted

5. The Principal Act is amended by deleting section 208 and substituting the following—

“Remuneration

208.—(1) The Chief Tribunal is entitled to such remuneration and other allowances as determined by the Judicial Services Commission.

(2) The members of the Tribunal are entitled to such remuneration and other allowances as determined by the Chief Justice.”

EMPLOYMENT RELATIONS (AMENDMENT) BILL 2017

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 Employment Relations Tribunal (**‘Tribunal’**) is established under section 202 of the Employment Relations Act 2007 (**‘Act’**) to *inter alia* adjudicate employment disputes or grievances between employers or their representatives and workers or their representatives in order to achieve and maintain effective employment relations.
- 1.2 Currently under section 204 of the Act, the Chief Tribunal is appointed by the Judicial Services Commission while the members of the Tribunal are appointed by the Minister responsible for the Act (**‘Minister’**).
- 1.3 However, in the interest of transparency and to ensure the impartiality and independence of the Tribunal, it is pertinent through the Employment Relations (Amendment) Bill 2017 (**‘Bill’**) to amend the Act to allow the Chief Justice to determine the appointment of the members of the Tribunal instead of the Minister given the Minister’s responsibilities under the Act with respect to employers, workers and their representatives.
- 1.4 Additionally, the proposed amendments are necessary given that the Tribunal under section 202(2) of the Act is deemed to be a subordinate court to the Employment Relations Court. Therefore, it is imperative that the Chief Justice be given the power to appoint members of the Tribunal in order to effectively assess the suitability of each person to be appointed as a member of the Tribunal and to determine where applicable, whether the legal qualifications of that person are of a calibre which will allow him or her to effectively deliberate in a subordinate court such as the Tribunal.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and the commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister.
- 2.2 Clause 2 of the Bill amends section 204 of the Act in subsection (2) by deleting “Minister” and substituting “Chief Justice” and by deleting subsection (3).
- 2.3 Clause 3 of the Bill amends section 205 of the Act by deleting “Minister” and substituting “Chief Justice”.
- 2.4 Clause 4 of the Bill amends section 207 of the Act by deleting “Minister” wherever it appears and substituting “Chief Justice”.
- 2.5 Clause 5 of the Bill amends the Act by deleting section 208 and substituting a new section 208 which provides for the determination of the remuneration and other allowances of the Chief Tribunal and the members of the Tribunal by the Judicial Services Commission and the Chief Justice respectively.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for employment, productivity and industrial relations.

A. SAYED-KHAIYUM
Attorney-General