

BILL NO. 16 OF 2018

A BILL

FOR AN ACT TO AMEND THE FIJI REVENUE AND CUSTOMS SERVICE ACT
1998

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Fiji Revenue and Customs Service (Budget Amendment) Act 2018.

(2) This Act comes into force on 1 August 2018.

(3) In this Act, the Fiji Revenue and Customs Service Act 1998 is referred to as the “Principal Act”.

Section 51 amended

2. The Principal Act is amended by deleting section 51 and substituting the following—

“Proceedings conducted by persons authorised by the Chief Executive Officer

51.—(1) Any person authorised in writing by the Chief Executive Officer may—

- (a) for any offence under this Act or under the laws specified in Schedule 1, conduct any prosecution in a court of competent jurisdiction; and

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- (b) for the recovery of any tax or duty payable under the laws specified in Schedule 1, appear in any civil proceedings in a court of competent jurisdiction.

(2) At any stage before the close of a case for prosecution or before a final order is made for the purposes of civil proceedings conducted in accordance with this section—

- (a) a person authorised under subsection (1) may, with the leave of the court, withdraw, substitute or amend any proceedings including any complaint or charge; or
- (b) where it appears to the court that the proceedings, including any complaint or charge, is defective either in substance or in form, the court may make such orders for—
 - (i) amendment to the proceedings, including any complaint or charge; or
 - (ii) a substitution or addition of a new proceedings, including any complaint or charge,

as the court thinks necessary to meet the circumstances of the case.”.

Section 52 amended

3. Section 52 of the Principal Act is amended by—

- (a) in subsection (1), deleting “revenue law” and substituting “law specified in Schedule 1”;
- (b) in subsection (3)—
 - (i) deleting “Subject to subsection (4)(b)” and substituting “Unless otherwise prescribed under subsection (4A)”;
 - (ii) deleting “revenue law” and substituting “law specified in Schedule 1” wherever it appears;

(c) deleting subsection (4) and inserting the following new subsections—

“(4) Pursuant to subsection (2), a revenue officer must not, except in accordance with regulations issued under subsection (4A), disclose any documents or information received in the performance of his or her duties.

(4A) The Minister may make regulations to prescribe, in relation to any documents or information received by a revenue officer in the performance of his or her duties under this Act—

- (a) the type of documents or information which may be disclosed by a revenue officer under this subsection;

- (b) the agencies, competent authorities, boards, the holder for the time being of a specified office, persons or classes of persons to whom a revenue officer may disclose documents or information;
 - (c) the manner and the purposes for which the documents or information being disclosed may be used;
 - (d) the arrangements which must be in place prior to the sharing of any documents or information under this subsection;
 - (e) the terms and conditions for the disclosure and use of any documents or information disclosed or to be disclosed under this provision;
 - (f) offences and penalties for—
 - (i) the improper use or unauthorised disclosure or dissemination, of any documents or information disclosed by a revenue officer; or
 - (ii) the breach of any term or condition prescribed in accordance with paragraph (e); and
 - (g) any other measures deemed necessary to ensure that documents or information issued pursuant to these regulations are maintained as secret and confidential.”;
- (d) in subsection (5), deleting “under subsection (4)” and substituting “pursuant to regulations issued under subsection (4A)”; and
- (e) in subsection (6), deleting “under subsection (4)” and substituting “pursuant to regulations issued under subsection (4A)”.

Schedule 1 amended

4. Schedule 1 to the Principal Act is amended after paragraph 14 by inserting the following new paragraph—

“15. Stamp Duties Act 1920”.

June 2018

**FIJI REVENUE AND CUSTOMS SERVICE (BUDGET 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 Fiji Revenue and Customs Service (Budget Amendment) Bill 2018 (**‘Bill’**) seeks to amend the Fiji Revenue and Customs Service Act 1998 (**‘Act’**).

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 2018.
- 2.2 Clause 2 of the Bill amends section 51 of the Act to allow any person authorised by the Chief Executive Officer of the Fiji Revenue and Customs Service (**‘Service’**) to conduct prosecution and appear in civil proceedings in any court of competent jurisdiction. Section 51 is also amended to allow a person authorised by the Chief Executive Officer to, with the leave of the court, withdraw, substitute or amend charges or complaints laid before a court of competent jurisdiction.
- 2.3 Clause 3 of the Bill amends section 52 of the Act to, in accordance with regulations prescribed by the Minister responsible for this Act (**‘Minister’**), allow a revenue officer of the Service to disclose any information or document received in the performance of his or her duties under any tax, excise or customs laws listed in Schedule 1 to the Act.
- 2.4 Under clause 3 of the Bill, regulations issued by the Minister will, amongst other things, strictly prescribe and regulate the parties to whom such information or documents may be disclosed, the type of information and document that can be disclosed and how the disclosed information or document may be used. The regulations will also prescribe offences and penalties for any improper use or unauthorised disclosure or dissemination, of any information or document under these provisions.

2.5 Clause 4 of the Bill amends Schedule 1 to the Act to provide clarity in order to add the Stamp Duties Act 1920 as a law which is administered by the Service. This is the current practice under the Stamp Duties Act 1920.

3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General