

# BILL NO. 26 OF 2020

## A BILL

FOR AN ACT TO AMEND THE LOCAL GOVERNMENT ACT 1972

ENACTED by the Parliament of the Republic of Fiji—

*Short title and commencement*

- 1.—(1) This Act may be cited as the Local Government (Budget Amendment) Act 2020.
- (2) This Act comes into force on 1 August 2020.
- (3) In this Act, the Local Government Act 1972 is referred to as the “Principal Act”.

*Section 2 amended*

2. Section 2 of the Principal Act is amended after the definition of “Electoral Commission” by inserting the following new definition—

““financial year” means a 12-month period commencing on and including 1 August and ending on and including 31 July;”.

*Section 19 amended*

3. Section 19 of the Principal Act is amended by—
  - (a) in subsection (1), deleting “31 July” and substituting “1 March”; and
  - (b) in subsection (2) after “Parliament”, inserting “within 7 months after the end of a financial year”.

*Section 35 amended*

4. Section 35(5) of the Principal Act is amended by deleting “60” and substituting “55”.

*Section 35A inserted*

5. The Principal Act is amended after section 35 by inserting the following new section—

*“Transition for change in retirement age*

35A.—(1) Notwithstanding section 4 of the Local Government (Budget Amendment) Act 2020, any person who has—

- (a) been appointed under section 35; and
- (b) reached the age of 55 years before 1 August 2020,

is to retire from the Council on 1 August 2021.

(2) Notwithstanding section 4 of the Local Government (Budget Amendment) Act 2020, any person who—

- (a) has been appointed under section 35; and
- (b) reaches the age of 55 years within the period commencing on and including 1 August 2020 and ending on and including 1 August 2021,

is to retire from the Council on 1 August 2021.

(3) For the avoidance of doubt, any person who—

- (a) has been appointed under section 35; and
- (b) reaches the age of 60 years on or before 1 August 2021,

is to retire from the Council on his or her sixtieth birthday.”.

*Section 46 amended*

6. Section 46(1) of the Principal Act is amended by deleting “November” and substituting “June”.

*Section 57 amended*

7. Section 57 of the Principal Act is amended by—

- (a) in subsection (1)—
  - (i) deleting “31 May” and substituting “31 December”; and
  - (ii) deleting “31 December” and substituting “31 July”; and
- (b) in subsection (3)—
  - (i) deleting “31 August” and substituting “31 March”; and
  - (ii) in paragraph (a), deleting “31 December” and substituting “31 July”.

*Section 57A inserted*

**8.** The Principal Act is amended after section 57 by inserting the following new section—

*“Transition for change in financial year*

57A.—(1) Notwithstanding sections 19 and 57, every Council must, on or before 31 October 2020, transmit to the Minister—

- (a) a copy of the statement prepared by the Council in accordance with subsections (3) to (5) for the period commencing on and including 1 January 2020 and ending on and including 31 July 2020;
- (b) a copy of any report on such statement made by the auditor; and
- (c) a report containing a summary of the proceedings and activities of the Council for the period commencing on and including 1 January 2020 and ending on and including 31 July 2020.

(2) The Minister must cause copies of the statement and report to be laid before Parliament as soon as reasonably practicable.

(3) The statement must show the financial position as regards the general and special accounts of the municipal fund in a form approved by the Minister and, in accordance with the accounting standards approved by the Fiji Institute of Accountants, must be prepared by the Council on or before 31 October 2020 showing the assets and liabilities of the Council on 31 July 2020 and the income from all sources and expenditure during the period commencing on and including 1 January 2020 and ending on and including 31 July 2020.

(4) The statement prepared by the Council must be audited and if found correct must be certified by the auditor as correct.

(5) On or before 31 March 2021, the Council must cause to be published in an English language newspaper published in Fiji and circulating within the municipality—

- (a) a balance sheet and a summarised statement of income and expenditure of the Council on 31 July 2020, together with any report by the auditor; and
- (b) notification that any ratepayer or any person holding any security charged upon the property of the Council may, at all reasonable times inspect, at the Council’s office, the statement as certified by the auditor and the Council’s report prepared pursuant to subsections (1) and (2) and may take copies from any part of the statement or report.”.

*Section 60 amended*

**9.** Section 60(3) of the Principal Act is amended by deleting “1 January” and substituting “1 August”.

## **LOCAL GOVERNMENT (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 Local Government (Budget Amendment) Bill 2020 (**‘Bill’**) seeks to amend the Local Government Act 1972 (**‘Act’**) to align the financial year of municipal councils with the Government’s financial year and to also reduce the retirement age of officers appointed to municipal councils, from 60 years to 55 years.
- 1.2 In 2016, the Government changed its financial year from the calendar year to the period commencing on 1 August and ending on 31 July. As a result, many statutory authorities in Fiji have aligned their financial year with the Government’s financial year for reporting and budgetary coordination.
- 1.3 Aligning the financial year of municipal councils with the Government’s financial year will improve budget planning and audit comparisons and the use of comparative data in investigations and reviews.
- 1.4 Reducing the retirement age of officers appointed to municipal councils from 60 years to 55 years aligns with the Government’s policy on retirement and the retirement age of civil servants.

#### **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 2 of the Act to provide for the definition of “financial year” and to align its definition with the definition of “financial year” in the Financial Management Act 2004.
- 2.3 Clause 3 of the Bill amends section 19 of the Act to align the reporting requirements for annual statements and other reports due to the change in the financial year.

- 2.4 Clause 4 of the Bill amends section 35(5) of the Act to reduce the retirement age of officers appointed to a municipal council, from 60 years to 55 years.
- 2.5 Clause 5 of the Bill inserts a new section in the Act to provide for transitional matters in respect of the reduction in the retirement age.
- 2.6 Clause 6 of the Bill amends section 46(1) of the Act to adjust the timelines from November to June for the preparation and approval of an estimate of the income and expenditure of a municipal council for the next succeeding year whether on account of property, contributions, rates, loans or otherwise.
- 2.7 Clause 7 of the Bill amends section 57 of the Act to adjust the requirements for the preparation and publication of annual statements due to the change in the financial year.
- 2.8 Clause 8 of the Bill inserts a new section in the Act to provide for transitional matters in respect of the change in the financial year.
- 2.9 Clause 9 of the Bill amends section 60(3) of the Act by deleting “1 January” and substituting “1 August”.
- 3.0 MINISTERIAL RESPONSIBILITY**
- 3.1 The Act comes under the responsibility of the Minister responsible for local government.

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Attorney-General