

BILL NO. 30 OF 2020

A BILL

FOR AN ACT TO AMEND THE FIJIAN COMPETITION AND CONSUMER COMMISSION ACT 2010

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the *Fijian Competition and Consumer Commission (Budget Amendment) Act 2020*.

(2) This Act comes into force on 1 August 2020.

(3) In this Act, the *Fijian Competition and Consumer Commission Act 2010* is referred to as the “Principal Act”.

Section 53A inserted

2. The Principal Act is amended after section 53 by inserting the following new section—

“Prices of goods and services to reflect decrease in duty and tax

53A.—(1) Where any duty or tax on goods or services is reduced, any person selling goods or services in the course of business must reflect the decrease in the duty or tax in the price of the goods or services.

2 *Fijian Competition and Consumer Commission (Budget Amendment)— of 2020*

(2) Subsection (1) does not apply if the person selling the goods or services does not reflect the decrease in the duty or tax in the price of the goods or services due to reasonable allowances for differences in cost or likely cost of distribution, sale or delivery resulting from the differing places to which, methods by which or quantities in which the goods are sold to the person or the consumer, as the case may be.

(3) The onus of proving that—

- (a) the price at which the goods or services are sold reflects the actual decrease in duty or tax on the goods or services; or
- (b) the failure to reflect the decrease in the duty or tax in the price of the goods or services is due to only reasonable allowances pursuant to subsection (2),

is on the person selling the goods or services.

(4) This section applies to any reduction of duty or tax in effect on or after 18 July 2020.

(5) The Commission must monitor, in the 2-year period beginning from the date of the duty or tax reduction, the prices of goods and services to ensure that the person selling the goods or services reflects the decrease in the duty or tax in the price of the goods or services.

(6) In this section—

“duty” has the same meaning given in section 2(1) of the Customs Act 1986 and includes excise duty;

“reduce” includes to remove; and

“tax” has the same meaning given in section 2(1) of the Tax Administration Act 2009.”.

Section 59 amended

3. Section 59(1) of the Principal Act is amended after “53,” by inserting “53A,”.

Consequential amendments

4.—(1) The Customs Act 1986 is amended by deleting section 137E.

(2) The Value Added Tax Act 1991 is amended by deleting section 72A.

(3) The Customs (Infringement Notices) Regulations 2018 is amended in Schedule 1 by deleting the row in relation to section 137E of the Customs Act 1986.

(4) The Tax Administration (Infringement Notices) Regulations 2018 is amended in Schedule 1 in paragraph 3 in the table by deleting the rows in relation to section 72A(3) and (4) of the Value Added Tax Act 1991.

July 2020

FIJIAN COMPETITION AND CONSUMER COMMISSION (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 Fijian Competition and Consumer Commission (Budget Amendment) Bill 2020 (**'Bill'**) seeks to amend the Fijian Competition and Consumer Commission Act 2010 (**'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 the Act by inserting a new section 53A, which essentially provides that any person selling goods or services in the course of business must reflect any decrease in the duty or tax on the goods or services in the price of the goods or services. The Fijian Competition and Consumer Commission will monitor the prices of goods and services for a period of 2 years.
- 2.3 Clause 2 of the Bill also provides that this requirement does not apply if the person selling the goods or services does not reflect the decrease in the duty or tax in the price of the goods or services due to reasonable allowances for differences in cost or likely cost of distribution, sale or delivery resulting from the differing places to which, methods by which or quantities in which the goods are sold to the person or the consumer, as the case may be.
- 2.4 Clause 3 of the Bill amends section 59(1) of the Act to include an offence under the new section 53A of the Act as a fixed penalty offence.
- 2.5 Clause 4 of the Bill consequentially amends the Customs Act 1986 and the Value Added Tax Act 1991 by deleting section 137E and section 72A respectively, given that the Fijian Competition and Consumer Commission will now be

responsible for monitoring the reduction in the prices of goods and services so as to reflect the decrease in duty or tax on those goods and services, instead of the Fiji Revenue and Customs Service.

- 2.6 Clause 4 of the Bill also consequentially amends the Customs (Infringement Notices) Regulations 2018 and the Tax Administration (Infringement Notices) Regulations 2018, to remove the fixed penalties in relation to section 137E of the Customs Act 1986 and section 72A(3) and (4) of the Value Added Tax Act 1991.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for commerce and trade.

A. SAYED-KHAIYUM
Attorney-General