

# BILL NO. 37 OF 2020

## A BILL

FOR AN ACT TO AMEND THE PASSPORTS ACT 2002

ENACTED by the Parliament of the Republic of Fiji—

*Short title and commencement*

- 1.—(1) This Act may be cited as the Passports (Amendment) Act 2020.
- (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 Passports Act 2002 is referred to as the “Principal Act”.

*Long title amended*

2. The Principal Act is amended in the long title by—
  - (a) deleting “FRESH”; and
  - (b) deleting “PASSPORTS” wherever it appears and substituting “TRAVEL DOCUMENTS”.

*Section 1 amended*

3. Section 1(1) of the Principal Act is amended by deleting “Passports” and substituting “Travel Documents”.

*Section 2 amended*

**4.** Section 2(1) of the Principal Act is amended by—

- (a) in the definition of “peacekeeping duty”, deleting “and”; and
- (b) inserting the following new definition—

““Permanent Secretary” means the permanent secretary responsible for immigration; and”.

*Section 4 amended*

**5.** Section 4 of the Principal Act is amended by—

- (a) in the heading, deleting “unmarried minors” and substituting “children”;
- (b) deleting subsections (1) and (2) and inserting the following new subsection—

“(1) In this section, “child” means an individual who has not reached the age of 18 years.”;

- (c) deleting “an unmarried minor” wherever it appears and substituting “a child”; and
- (d) in subsection (4), deleting “minor” wherever it appears and substituting “child”.

*Section 9C amended*

**6.** Section 9C of the Principal Act is amended by deleting “Department of Immigration” wherever it appears and substituting “Fijian Immigration Department”.

*Section 9E amended*

**7.** Section 9E of the Principal Act is amended by deleting “\$10,000 or to a term of imprisonment of 2 years, or to both” and substituting “\$50,000 or imprisonment for a term not exceeding 10 years or both”.

*Section 11 amended*

**8.** Section 11 of the Principal Act is amended by deleting “of \$1,000 and to imprisonment for 6 months” and substituting “not exceeding \$5,000 or imprisonment for a term not exceeding one year or both”.

*Section 12 amended*

**9.** Section 12 of the Principal Act is amended by deleting “of \$2,000 and to imprisonment for 12 months” and substituting “not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both”.

*Section 13 amended*

**10.** Section 13(3) of the Principal Act is amended by deleting “of \$1,000 and to imprisonment for 6 months” and substituting “not exceeding \$5,000 or imprisonment for a term not exceeding one year or both”.

*Section 14 amended*

**11.** Section 14(2) of the Principal Act is amended by deleting “of \$2,000 and to imprisonment for 12 months” and substituting “not exceeding \$5,000 or imprisonment for a term not exceeding one year or both”.

*Section 15 amended*

**12.** Section 15(3) of the Principal Act is amended by deleting “, on conviction, to a fine of \$10,000 and to imprisonment for 5 years” and substituting “on conviction to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 10 years or both”.

*Section 16 amended*

**13.** Section 16 of the Principal Act is amended by—

- (a) in subsection (1), deleting “to a fine of \$1,000 and to imprisonment for 6 months” and substituting “on conviction to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 10 years or both”; and
- (b) in subsection (2), deleting “of \$1,000 and to imprisonment for 6 months” and substituting “not exceeding \$50,000 or imprisonment for a term not exceeding 10 years or both”.

*Amendments to office of Director of Immigration*

**14.** The Principal Act is amended by—

- (a) in section 17(3)(d), deleting “Director of Immigration” and substituting “Fijian Immigration Department”; and
- (b) deleting “Director of Immigration” wherever it appears and substituting “Permanent Secretary”.

*Consequential amendments*

**15.** The laws listed in the Schedule are amended as set out in that schedule.

SCHEDULE  
(Section 15)

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CONSEQUENTIAL AMENDMENTS

*Biosecurity Act 2008*

1. The Biosecurity Act 2008 is amended in section 96(8)(a) by deleting “Director of Immigration” and substituting “permanent secretary responsible for immigration”.

*Citizenship of Fiji Act 2009*

2. The Citizenship of Fiji Act 2009 is amended by —

- (a) in section 3 in the definition of “Permanent Secretary” after “for the”, inserting “Fijian”; and
- (b) in section 26, deleting “Director of Immigration” and substituting “Permanent Secretary”.

*Fiji Independent Commission Against Corruption Act 2007*

3. The Fiji Independent Commission Against Corruption Act 2007 is amended in section 13(1)(e) by deleting “Director of Immigration” and substituting “permanent secretary responsible for immigration”.

*Fiji National Provident Fund Act 2011*

4. The Fiji National Provident Fund Act 2011 is amended by —

- (a) in section 104(4)(b), deleting “Permanent Secretary or the Director of the Department of Immigration” and substituting “permanent secretary responsible for immigration”; and
- (b) in sections 106(4)(b) and 107(3)(b), deleting “Permanent Secretary of the Department of Immigration” and substituting “permanent secretary responsible for immigration”.

*Immigration Act 2003*

5. The Immigration Act 2003 is amended by —

- (a) in section 39 —
  - (i) in subsection (2)(d) after “notify the”, inserting “Fijian”; and
  - (ii) in subsection (3)(b) after “to the”, inserting “Fijian”; and
- (b) in section 58(3)(d), deleting “Director of Immigration” and substituting “Fijian Immigration Department”.

*Registration of Skilled Professionals Act 2016*

6. The Registration of Skilled Professionals Act 2016 is amended by —

- (a) in section 10, deleting “Director of Immigration” wherever it appears and substituting “permanent secretary responsible for immigration”; and
- (b) in section 15(2)(a), deleting “Director of Immigration” and substituting “permanent secretary responsible for immigration”.

*Sea Ports Management Act 2005*

7. The Sea Ports Management Act 2005 is amended in section 24(3)(c) by deleting “Department of Immigration” and substituting “Fijian Immigration Department”.

*Security Industry Act 2010*

8. The Security Industry Act 2010 is amended in section 5(2)(f) by deleting “Department of Immigration” and substituting “the Fijian Immigration Department”.

*Tax Administration Act 2009*

9. The Tax Administration Act 2009 is amended in section 31 by deleting “Director of Immigration” wherever it appears and substituting “permanent secretary responsible for immigration”.

*Tertiary Scholarship and Loans Act 2014*

10. The Tertiary Scholarship and Loans Act 2014 is amended in section 18 by deleting “Director of Immigration” wherever it appears and substituting “permanent secretary responsible for immigration”.

*Value Added Tax Act 1991*

11. The Value Added Tax Act 1991 is amended in Schedule 4 in paragraph 3 in the definition of “student’s permit” by deleting “Director of Immigration” and substituting “permanent secretary responsible for immigration”.

*Accident Compensation (Employment Accidents) Regulations 2018*

12. The Accident Compensation (Employment Accidents) Regulations 2018 is amended in regulation 16 by—

- (a) in subregulations (4) and (5), deleting “Director of Immigration” wherever it appears and substituting “permanent secretary responsible for immigration”; and
- (b) in subregulation (6), deleting “Department of Immigration” and substituting “Fijian Immigration Department”.

*Accident Compensation (School Accidents) Regulations 2018*

13. The Accident Compensation (School Accidents) Regulations 2018 is amended in regulation 8 by—

- (a) in subregulations (4) and (5), deleting “Director of Immigration” wherever it appears and substituting “permanent secretary responsible for immigration”; and
- (b) in subregulation (6), deleting “Department of Immigration” and substituting “Fijian Immigration Department”.

*Customs (Infringement Notices) Regulations 2018*

14. The Customs (Infringement Notices) Regulations 2018 is amended in regulation 7 by—

- (a) in subregulations (4) and (5), deleting “Director of Immigration” wherever it appears and substituting “permanent secretary responsible for immigration”; and

- (b) in subregulation (6), deleting “Department of Immigration” and substituting “Fijian Immigration Department”.

*Excise (Infringement Notices) Regulations 2018*

15. The Excise (Infringement Notices) Regulations 2018 is amended in regulation 7 by—

- (a) in subregulations (4) and (5), deleting “Director of Immigration” wherever it appears and substituting “permanent secretary responsible for immigration”; and
- (b) in subregulation (6), deleting “Department of Immigration” and substituting “Fijian Immigration Department”.

*Fiji Revenue and Customs Service (Information Sharing) Regulations 2019*

16. The Fiji Revenue and Customs Service (Information Sharing) Regulations 2019 is amended in the Schedule in paragraph 40 by deleting “Department of Immigration” and substituting “Fijian Immigration Department”.

*Immigration Regulations 2007*

17. The Immigration Regulations 2007 is amended in regulation 34(1)(d) by deleting “Director of Immigration” and substituting “Permanent Secretary”.

*Income Tax (Exempt Income) Regulations 2016*

18. The Income Tax (Exempt Income) Regulations 2016 is amended in the Schedule in Part 4 in paragraph (5) by deleting “Department of Immigration” and substituting “Fijian Immigration Department”.

*Land Transport (Traffic Infringement Notice) Regulations 2017*

19. The Land Transport (Traffic Infringement Notice) Regulations 2017 is amended in regulation 7 by—

- (a) in subregulations (2) and (3), deleting “Director of Immigration” wherever it appears and substituting “permanent secretary responsible for immigration”; and
- (b) in subregulation (4), deleting “Department of Immigration” and substituting “Fijian Immigration Department”.

*Ozone Depleting Substances Regulations 2010*

20. The Ozone Depleting Substances Regulations 2010 is amended in regulation 24(3)(c) by deleting “Director of Immigration” and substituting “permanent secretary responsible for immigration”.

*Tax Administration (Infringement Notices) Regulations 2018*

21. The Tax Administration (Infringement Notices) Regulations 2018 is amended in regulation 7 by—

- (a) in subregulations (4) and (5), deleting “Director of Immigration” wherever it appears and substituting “permanent secretary responsible for immigration”; and

- (b) in subregulation (6), deleting “Department of Immigration” and substituting “Fijian Immigration Department”.

## **PASSPORTS (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 Passports (Amendment) Bill 2020 (**‘Bill’**) seeks to amend the Passports Act 2002 (**‘Act’**) to:

- (i) change the short title of the Act from the “Passports Act 2002” to the “Travel Documents Act 2002”;
- (ii) change the name of the “Department of Immigration” to the “Fijian Immigration Department”;
- (iii) delete the references to “unmarried minors” and substitute the more appropriate terminology of “child”, and to lower the age criteria of a “child” from 21 years to 18 years in line with the Constitution of the Republic of Fiji (**‘Constitution’**);
- (iv) increase the penalties for offences under the Act for more appropriate benchmarking in line with other Fijian laws and the laws of other jurisdictions with similar offences; and
- (v) shift the responsibility of the Director of Immigration under the Act and other laws to the Permanent Secretary responsible for immigration.

#### **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 the long title of the Act to remove the word “FRESH” and to clarify that the Act makes provision for travel documents and not only passports.



- 2.3 Clause 3 of the Bill amends section 1(1) of the Act to rename the Act as the “Travel Documents Act 2002”, as the Act and subsidiary legislation made under the Act deal with more than just passports.
- 2.4 Clause 4 of the Bill amends section 2 of the Act to provide for the definition of “Permanent Secretary”.
- 2.5 Clause 5 of the Bill amends section 4 of the Act to amend the references to “unmarried minor” to “child”. Clause 4 of the Bill also inserts the definition of “child” for consistency with the definition of “child” in the Constitution.
- 2.6 Clause 6 of the Bill amends section 9C of the Act to reflect the change in the name of the Department of Immigration to the Fijian Immigration Department.
- 2.7 Clauses 7 to 13 of the Bill amend sections 9E and 11 to 16 of the Act to propose a more stringent set of penalties for offences within the Act.
- 2.8 Clause 14 of the Bill amends the Act to shift the statutory powers and responsibilities of the Director of Immigration to the Permanent Secretary responsible for immigration.
- 2.9 Clause 15 of the Bill provides for consequential amendments to laws as listed in the Schedule to the Bill. These laws are consequentially amended to give effect to the proposed changes under clauses 6 and 14.
- 3.0 MINISTERIAL RESPONSIBILITY**
- 3.1 The Act comes under the responsibility of the Minister responsible for immigration.

A. SAYED-KHAIYUM  
Attorney-General