

BILL NO. 35 OF 2022

A BILL

FOR AN ACT TO AMEND THE TERTIARY SCHOLARSHIPS AND LOANS ACT
2014

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Tertiary Scholarships and Loans (Budget Amendment) Act 2022.

(2) This Act comes into force on 1 August 2022.

(3) In this Act, the Tertiary Scholarships and Loans Act 2014 is referred to as the “Principal Act”.

Section 6A amended

2. Section 6A of the Principal Act is amended by deleting “Secretariat” and substituting “Chief Executive Officer”.

Section 10 amended

3. Section 10 of the Principal Act is amended after subsection (5) by inserting the following new subsections—

“(6) The Service must keep minutes of all its meetings.

2 *Tertiary Scholarships and Loans (Budget Amendment)— of 2022*

(7) Any minutes, if duly signed by the Chairperson or a Service member presiding, must, in any legal proceedings, be admissible as evidence of the facts stated in them and a meeting of the Service in respect of which minutes have been so signed is deemed to have been duly convened and held and the members present at it to have been duly appointed to act.

(8) Subject to this Act, the Service may regulate its own proceedings.”.

Section 13A inserted

4. The Principal Act is amended after section 13 by inserting the following new section—

“Appointment of committees

13A.—(1) The Service may establish committees as it considers necessary or expedient to assist in the performance of its functions under this Act.

(2) The Service may appoint any person to be a member of any committee established under subsection (1), and a chairperson of the committee.

(3) A committee established under this section may regulate its own procedures and, in the exercise of its functions under this subsection, such committee must act in accordance with any direction given to the committee by the Service.

(4) A meeting of a committee established under this section must be held at such times and places as the chairperson of the committee may, subject to subsection (3), determine.

(5) A committee may invite any person to attend any meeting of the committee to advise on any matter under discussion, and the person invited is not entitled to vote at any such meeting.

(6) The members of a committee or any person invited to attend any meeting of a committee may be paid allowances as the Service may determine.”.

Section 14 amended

5. The Principal Act is amended by deleting section 14 and substituting the following—

“Chief Executive Officer

14.—(1) The Service may, after consultation with the Minister, appoint a suitably qualified person as the Chief Executive Officer of the Service in accordance with the terms and conditions as may be determined by the Service.

(2) The Chief Executive Officer—

(a) is responsible to the Service for the administration and management of the functions and affairs of the Service;

(b) may, with the approval of the Service, prepare internal policies and strategies addressing internal affairs important for the operation of the Service;

- (c) may, by instrument in writing, delegate to any employee all or any of the Chief Executive Officer's functions and powers, except the power of delegation under this section;
- (d) must perform any other function relating to this Act that the Service, in writing, confers on him or her; and
- (e) must report to the Service as required by the Service.”.

Section 15 inserted

6. The Principal Act is amended after section 14 by inserting the following new section—

“Employees of the Service

15.—(1) The Chief Executive Officer may appoint employees as it considers necessary to effectively deliver the Service's mandate.

(2) The employees of the Service are to be paid such remuneration and employed on such terms and conditions of employment as may be determined by the Chief Executive Officer, subject to the approval of the Service.”.

Section 24 amended

7. The Principal Act is amended by deleting section 24 and substituting the following—

“Exemption from liability

24.—(1) No proceedings, civil or criminal, lie against the Service for anything it may do or fail to do in the course of the exercise or intended exercise of its functions, unless it is shown that the Service did not act in good faith or with reasonable care.

(2) No proceedings, civil or criminal, lie against any employee of the Service for anything done or said, or any failure to do or say anything in the course of the operation of the Service, unless it is shown that the employee did not act in good faith or with reasonable care.”.

References to “Tertiary Scholarships and Loans Act”

8. All written laws and State documents of any nature whatsoever (including the titles of any written law) are amended by deleting “Tertiary Scholarships and Loans Act” wherever it appears and substituting “Tertiary Scholarships and Loans Service Act”, unless the context otherwise requires.

July 2022

TERTIARY SCHOLARSHIPS AND LOANS (BUDGET AMENDMENT) BILL 2022

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 Tertiary Scholarships and Loans Act 2014 (**‘Act’**) provides for the administration of tertiary scholarships and loans in Fiji.
- 1.2 In 2021, Parliament enacted amendments to the Act to change all references to “Tertiary Scholarship and Loans Board” to “Tertiary Scholarships and Loans Service”. This measure was undertaken to reflect the service-based approach that has been adopted by the Tertiary Scholarships and Loans Service (**‘Service’**).
- 1.3 Section 14 of the Act establishes the Secretariat which comprises the Chief Executive Officer (**‘CEO’**) and other staff as the Service deems necessary but does not provide for the specific functions of the Secretariat in relation to the Service and the Act.
- 1.4 Therefore to remove ambiguity, the Tertiary Scholarships and Loans (Budget Amendment) Bill 2022 (**‘Bill’**) seeks to amend the Act to remove the Secretariat and provide for the appointment of the CEO. The Bill also provides for the CEO’s responsibilities and allows the CEO to appoint employees of the Service. Further, the Bill provides for exemption from liability for the Service and employees of the Service.
- 1.5 The Bill further provides for the change of name of the Act from “Tertiary Scholarships and Loans Act” to Tertiary Scholarships and Loans Service 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 2022.

- 2.2 Clause 2 of the Bill amends section 6A of the Act to empower the Service to delegate any of its functions and powers under the Act to the CEO.
- 2.3 Clause 3 of the Bill amends section 10 of the Act to provide that the Service must keep minutes of all meetings of the Service, and such minutes, if duly signed by the Chairperson or a Service member presiding, will be admissible as evidence in any legal proceedings.
- 2.4 Clause 3 of the Bill also amends section 10 of the Act to allow the Service to regulate its own proceedings.
- 2.5 Clause 4 of the Bill amends the Act by inserting section 13A to allow the Service to appoint committees as it deems necessary to assist in the performance of the Service's functions under the Act.
- 2.6 Clause 5 of the Bill amends section 14 of the Act to provide for the appointment of the CEO and the functions and powers of the CEO.
- 2.7 Clause 6 of the Bill amends section 15 of the Act to allow the Chief Executive Officer to appoint employees of the Service.
- 2.8 Clause 7 of the Bill amends section 24 of the Act to provide that the Service including the employees of the Service, is exempted from liability.
- 2.9 Clause 8 of the Bill amends the Act to allow the change of name of the Act from "Tertiary Scholarships and Loans Act" to "Tertiary Scholarships and Loans Service Act".

3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General