

BILL NO. 38 OF 2022

A BILL

FOR AN ACT TO AMEND THE FISHERIES ACT 1941

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Fisheries (Budget Amendment) Act 2022.
- (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 Fisheries Act 1941 is referred to as the “Principal Act”.

Section 5 amended

2. Section 5 of the Principal Act is amended by—
 - (a) in subsection (2), deleting “terminate on 31 December next after” and substituting “be granted for a period not exceeding 3 years from”; and
 - (b) after subsection (2), inserting the following new subsections—

“(2A) For the avoidance of doubt, any licence granted before the commencement of the Fisheries (Budget Amendment) Act 2022 is valid until 31 December 2022 unless the licence is earlier cancelled.

(2B) Any application for a licence lodged before the commencement of the Fisheries (Budget Amendment) Act 2022 and is yet to be processed, must be processed in accordance with this Act, and any licence granted may be granted for a period not exceeding 3 years.”.

Section 6 amended

3. Section 6 of the Principal Act is amended by—

- (a) in subsection (1), deleting “annually”; and
- (b) after subsection (1), inserting the following new subsections—

“(1A) For the avoidance of doubt, any fishing vessel that is registered before the commencement of the Fisheries (Budget Amendment) Act 2022 is registered until 31 December 2022 unless the registration is earlier cancelled.

(1B) Any application for registration of a fishing vessel lodged before the commencement of the Fisheries (Budget Amendment) Act 2022 and is yet to be processed, must be processed in accordance with this Act, and any fishing vessel registered must be registered in the prescribed manner.”.

Section 13 amended

4. Section 13 of the Principal Act is amended by—

- (a) deleting subsection (3) and substituting the following—

“(3) A permit may be granted for a period not exceeding 3 years provided the consent of the iTaukei people whose fishing rights may be affected is given for any such period granted.”; and

- (b) after subsection (3), inserting the following new subsections—

“(4) For the avoidance of doubt, any permit granted before the commencement of the Fisheries (Budget Amendment) Act 2022 is valid until 31 December 2022 unless the permit is earlier cancelled.

(5) Any application for a permit lodged before the commencement of the Fisheries (Budget Amendment) Act 2022 and is yet to be processed, must be processed in accordance with this Act, and any permit granted may be granted for a period not exceeding 3 years provided the consent of the iTaukei people whose fishing rights may be affected is given for any such period granted.”.

July 2022

FISHERIES (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 Fisheries Act 1941 (**‘Act’**) provides for the requirement for a licence to be issued by the licensing officer to take fish for trade or business (**‘Licence’**). A Licence issued under the Act terminates on 31 December each year. The Act also provides that a fishing vessel used for trade or business is to be registered and the registration is renewed annually.
- 1.2 Moreover, under the Act, for a Licence to be issued to fish in a registered customary fishing grounds, a permit issued by the Commissioner of a Division (**‘Commissioner’**) is first required. The Permit is granted for a period not exceeding 3 years, but expires on 31 December each year. The Commissioner will first consult the customary fishing owners before issuing the Permit. However, the current practice is that the Commissioner issues the Permit until 31 December in the year the Permit was applied for. A Licence issued to take fish in a registered customary fishing ground is subject to the terms and conditions of the Permit issued by the Commissioner.
- 1.3 The process of applying for a Licence or Permit every year and of the renewal of the registration of a fishing vessel annually can be time consuming and creates administrative and logistic difficulties. As a result, a fisher may not have a lot of opportunities to secure bank loans and to invest in their fishing business due to the short period of a Licence or Permit granted. This causes a hindrance to fishers who wish to operate their fishing business to earn their livelihood.
- 1.4 Therefore, the Fisheries (Budget Amendment) Bill 2022 (**‘Bill’**) seeks to amend the Act to give certainty and allow for more investment, particularly in terms of securing bank loans in which providing for a longer tenure for a Licence, the registration of a fishing vessel, and the Permit, will encourage investment in commercial fishing business.

- 1.5 In particular, this will also encourage the iTaukei people who have customary rights over the customary fishing ground to invest themselves in commercial fishing business as they now would have the ability to secure bank loans to assist with their commercial fishing business given the longer tenure of the Licence, registration of a fishing vessel and the Permit.
- 1.6 The Bill also seeks to amend the Act to clarify that, a Permit granted to fish in a customary fishing ground will only be granted by the Commissioner upon consultation with the customary fishing owners. The requirement for consent from the customary fishing owners further reinforces the current practice and strengthens and protects the rights of customary fishing owners.

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 section 5 of the Act to extend the period of a Licence from expiring on 31 December each year to a period not exceeding 3 years.
- 2.3 Clause 2 of the Bill also amends section 5 of the Act to insert transitional provisions. These provisions provide clarification that a Licence granted before the commencement of the amending legislation will continue to be valid until 31 December 2022 unless the Licence is earlier cancelled.
- 2.4 Furthermore, clause 2 of the Bill provides that any application for a Licence lodged before the commencement of the amending legislation and is yet to be processed, must be processed in accordance with the amending legislation and the Licence granted must be granted for a period not exceeding 3 years.
- 2.5 Clause 3 of the Bill amends section 6 of the Act to provide for the registration and renewal of registration of any fishing vessel in the prescribed manner and removes the requirement for annual registrations and renewals.
- 2.6 Clause 3 of the Bill also amends section 6 of the Act to insert transitional provisions. These provisions provide clarification that a fishing vessel registered before the commencement of the amending legislation will continue to be registered until 31 December 2022 unless the registration is earlier cancelled.
- 2.7 Furthermore, clause 3 of the Bill provides that any application for registration of a fishing vessel lodged before the commencement of the amending legislation and is yet to be processed, must be processed in accordance with the amending legislation, and the registration is to be renewed in the prescribed manner.

- 2.8 Clause 4 of the Bill amends section 13 of the Act to specify that the Permit issued under the Act is to be granted for a period not exceeding 3 years provided that the consent of the iTaukei people whose fishing rights may be affected is given for any such period granted.
- 2.9 Clause 4 of the Bill also amends section 13 of the Act to insert transitional provisions. These provisions provide clarification that a Permit granted before the commencement of the amending legislation will continue to be valid until 31 December 2022 unless earlier cancelled.
- 2.10 Furthermore, clause 4 of the Bill provides that any application for a Permit lodged before the commencement of the amending legislation and is yet to be processed, must be processed in accordance with the amending legislation subject to the consent of the customary fishing owners.

3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General