

# BILL NO. 45 OF 2022

## A BILL

FOR AN ACT TO AMEND THE MEDIA INDUSTRY DEVELOPMENT ACT 2010

ENACTED by the Parliament of the Republic of Fiji—

*Short title and commencement*

**1.**—(1) This Act may be cited as the Media Industry Development (Budget Amendment) Act 2022.

(2) This Act comes into force on a date appointed by the Minister by notice in the Gazette.

(3) In this Act, the Media Industry Development Act 2010 is referred to as the “Principal Act”.

*Sections 38A and 38B inserted*

**2.** The Principal Act is amended after section 38 by inserting the following new sections—

*“Management of the affairs and operations of media organisation*

38A.—(1) A media organisation must not, without the prior approval of the Authority, enter into any agreement with any person that allows the person or any other person to manage the affairs or operations of the media organisation.

2 *Media Industry Development (Budget Amendment)— of 2022*

(2) Any media organisation that contravenes subsection (1) commits an offence.

(3) For the purpose of this section and section 38B, “to manage the affairs or operations of the media organisation” includes the management, decision making, control of or any other governing function in relation to the day-to-day operations, finances, staffing or production of, or publication by, the media organisation.

*Transitional*

38B. If a media organisation is a party to an agreement with a person that allows the person or any other person to manage the affairs or operations of the media organisation, and the agreement had been executed before the commencement of the Media Industry Development (Budget Amendment) Act 2022—

- (a) the media organisation must inform the Authority of the agreement and provide details of the agreement including whether the agreement is in writing or otherwise, within 3 days from the commencement of the Media Industry Development (Budget Amendment) Act 2022; and
- (b) the agreement continues to be valid for one month only from the commencement of the Media Industry Development (Budget Amendment) Act 2022 and is void thereafter unless earlier cancelled or terminated.”.

*Section 43 amended*

3. Section 43(2) of the Principal Act is amended by—

- (a) deleting “Any” and substituting “Notwithstanding subsection (1), any”; and
- (b) deleting “sections 38 and” wherever it appears and substituting “section 38, 38A, 38B or”.

## **MEDIA INDUSTRY DEVELOPMENT (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 Media Industry Development Act 2010 (**‘Act’**) provides for *inter alia* the regulation and registration of media organisations in Fiji.
- 1.2 Under section 33 of the Act, every media organisation that provides or intends to provide media services in Fiji must be registered under the Act. A media organisation is registered when the proprietor or proprietors of the media organisation deposit with the Media Industry Development Authority (**‘Authority’**), a duly sworn and signed affidavit or affidavits containing the required information as specified under the Act.
- 1.3 Section 38 of the Act provides that in the case of a company, all directors of a media organisation must be Fijian citizens permanently residing in Fiji. In the case of any other legal entity, the person or persons with analogous powers in a media organisation, must also be Fijian citizens permanently residing in Fiji.
- 1.4 Section 38 of the Act also provides the limits of beneficial ownership of shares in a company or any other interest in the nature of ownership of a media organisation. Accordingly, up to 10% of the beneficial ownership or interest in the nature of ownership of a media organisation is allowed for any foreign person holding such shares or interests while 90% of any beneficial ownership of shares or any other interest in the nature of ownership of the media organisation, must be owned by Fijian citizens permanently residing in Fiji.
- 1.5 The Media Industry Development (Budget Amendment) Bill 2022 (**‘Bill’**) seeks to amend the Act to ensure that those who are directly in charge of a media organisation and its operations are shielded from any outside influence that may, by formal agreement or other arrangement, essentially take over or control the provision of services that deal with the day-to-day operations of the media organisation including its finances, staffing, productions or publications.

- 1.6 The Bill also amends the Act to prohibit a media organisation from entering into any agreement which allows any other person from managing the affairs or operations of the media organisation without the prior approval of the Authority. This would ensure that control of a media organisation remains with the media organisation. More importantly, the proposed amendment would prevent a person from circumventing safeguards for media organisations provided for under the Act.
- 1.7 Lastly, the Bill amends the Act to require a media organisation to notify the Authority where any such agreement exists and to provide details of the agreement in order to verify and ensure that the media organisation's operations are not in any way unduly influenced.

## **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 appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill amends the Act by inserting sections 38A and 38B to provide that the management of the affairs and operations of a media organisation must be carried out by the media organisation.
- 2.3 Clause 2 of the Bill also amends the Act to prohibit a media organisation from entering into any agreement which allows any other person from managing the affairs or operations of the media organisation unless the prior approval of the Authority is obtained.
- 2.4 Clause 2 of the Bill further amends the Act to require a media organisation to notify the Authority where any such agreement exists prior to the commencement of the amending legislation, and to provide details of the agreement including whether the agreement is in writing or otherwise.
- 2.5 Clause 3 of the Bill amends section 43 of the Act to provide for penalties for an offence committed under section 38A or 38B.

## **3.0 MINISTERIAL RESPONSIBILITY**

- 3.1 The Act comes under the responsibility of the Attorney-General.

A. SAYED-KHAIYUM  
Attorney-General