

BILL NO. 14 OF 2025

A BILL

FOR AN ACT TO AMEND THE CUSTOMS ACT 1986

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Customs (Budget Amendment) Act 2025.
- (2) This Act comes into force on 1 August 2025.
- (3) In this Act, the Customs Act 1986 is referred to as the “Principal Act”.

Section 2 amended

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

- (a) deleting the definition of “authorised economic operator” and substituting the following—

““authorised economic operator” or “AEO” means an entity that has been offered accreditation to participate in the Fiji Revenue and Customs Service Authorised Economic Operator programme under section 92B of the Act;”;

(b) inserting the following new definitions—

““biometric information” in relation to a person, means information that comprises—

- (a) 1 or more of the following kinds of information—
 - (i) a photograph of all or any part of the person’s head and shoulders;
 - (ii) impressions of the person’s fingerprints; or
 - (iii) a scan of the person’s irises; and
- (b) an electronic record of the information that is capable of being used for biometric matching;”;

““commercial transportation operator” means any of the following—

- (a) an owner or operator of an aircraft or ship that transports goods or persons for commercial purposes—
 - (i) from Fiji to a point outside Fiji; or
 - (ii) from a point outside Fiji to a point within Fiji;
- (b) an agent of an owner referred to in paragraph (a);
- (c) a person who organises the handling or transportation of goods or persons for commercial purposes—
 - (i) from Fiji to a point outside Fiji; or
 - (ii) from a point outside Fiji to a point within Fiji;
- (d) an agent of a person who organises the handling or transportation of goods or persons as referred to in paragraph (c);
- (e) an owner, occupier, or operator of a customs enclosed area that is licensed to be used for—
 - (i) the disembarkation, embarkation, or processing of persons arriving in, or departing from, Fiji;
 - (ii) the processing of aircraft or ship arriving in, or departing from, Fiji; and
 - (iii) the loading or unloading of goods;”;

““passenger name record” or “PNR” means the electronic record created by a commercial transportation operator for a journey booked by or for a person, which includes the following information—

- (a) the person’s name;

- (b) the person’s contact details;
- (c) the place where the person, or another person, booked the intended travel;
- (d) the date on which the person, or another person, booked the intended travel;
- (e) the name of any other person with whom the person intends to travel with;
- (f) whether the person paid for his or her own intended travel, and the manner of payment;
- (g) the person’s travel movements before the intended travel;
- (h) any change in the person’s travel from the travel originally booked; and
- (i) whether the person has checked baggage;” and

““personal information” means information about an identifiable person including, without limitation, biometric information;”.

Part 5B inserted

3. The Principal Act is amended after Part 5A by inserting the following new Part—

“PART 5B — FURTHER POWERS IN RELATION TO ARRIVAL AND DEPARTURE INFORMATION

Purposes for which powers under this Part may be exercised

21A. The Comptroller’s powers under this part may be exercised for any of the following purposes—

- (a) carry out any function of the Comptroller or proper officer under this Act;
- (b) prevent, detect, investigate, prosecute and punish offences that are, or that if committed in Fiji, would be—
 - (i) customs laws offences of any kind; or
 - (ii) other offences punishable by imprisonment;
- (c) process international passengers at the border by border and government agencies;
- (d) protect border security; and
- (e) protect the health and safety of the members of public.

Comptroller may require commercial transportation operator to provide PNR information

21B.—(1) The Comptroller may, by notice in writing, require a commercial transportation operator to comply with this section on and after a specified date.

(2) The commercial transportation operator must provide the Service with all specified information that—

- (a) is included in the passenger name record of any persons referred to in subsection (3); and
 - (b) the commercial transportation operator holds (whether in Fiji or elsewhere) or has access to.
- (3) The persons are persons who—
- (a) have arrived in, or departed from, Fiji on or after the specified date;
 - (b) are arriving in, or departing from, Fiji on or after the specified date; or
 - (c) intend to arrive in, or depart from, Fiji on or after the specified date.
- (4) The specified information in relation to any persons must be provided—
- (a) not earlier than 72 hours before the scheduled departure of the aircraft or ship on which the person is travelling to or from Fiji;
 - (b) not later than 24 hours after the scheduled departure of the aircraft or ship; and
 - (c) in the specified way.

(5) In this section, “specified” means specified in the Comptroller’s notice under subsection (1).

(6) The Comptroller must have regard to the standards and recommended practices for the conduct of the international civil aviation system established by the International Civil Aviation Organisation under the Convention on International Civil Aviation when specifying—

- (a) the information required to be provided by the commercial transportation operator; and
- (b) the way in which that information is to be provided.

Supplementary provision relating to requirement to provide PNR information

21C.—(1) The Comptroller may, under this Part, specify the way in which any information is to be provided to the Service and include, without limitation, the power to specify any of the following—

- (a) the form in which the information is to be provided; and
- (b) any declaration that must be provided with the information.

(2) The Comptroller may, by notice in writing, in any circumstance specified in the notice, exempt a commercial transportation operator from complying with some or all of his or her obligations under this Part.

(3) An exemption under subsection (2) from providing information in the way specified in the Comptroller's notice under section 21B must be conditional on the provision of that information in some other way that is acceptable to the Comptroller.

(4) For the avoidance of doubt, a commercial transportation operator is not required to provide any information under section 21B that the commercial transportation operator holds, or has access to, in relation to an employee, unless the information is of a kind that is also held by, or generally accessible to the commercial transportation operator in relation to passengers.

Disposal of PNR information

21D. The Service must not keep information provided under this part for longer than 7 years, unless—

- (a) all identifying particulars are deleted from the information; or
- (b) the retention of the information is required for the purpose of—
 - (i) investigating and prosecuting an offence under this Act or under any other written law; or
 - (ii) protecting border security.

Failure to provide PNR information

21E.—(1) A commercial transportation operator commits an offence if he or she, without reasonable excuse, fails to provide the Service with any specified information required under section 21B(2).

(2) A person who commits an offence under this section is liable—

- (a) in the case of an individual, to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years or both; or
- (b) in the case of a body corporate, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 10 years or both.

Other provision about arrival and departure information

21F. The Service may, for the purposes of passenger and crew processing, monitoring the movement of aircraft or ship and persons, and border security, collect any of the following information about aircraft or ship and persons arriving in, or departing from, Fiji—

- (a) details of aircraft or ship movements, including the aircraft or ship name and registration number or identifier, estimated date and time of arrival or departure, and place of origin and destination; and
- (b) personal information, including the person's name, date of birth, sex, biometric information, passport number, nationality, and travel movements.”.

Section 36F amended

4. Section 36F(2) of the Principal Act is amended by deleting “5 years” and substituting “7 years”.

Section 37 amended

5. Section 37(2) of the Principal Act is amended by—

- (a) in paragraph (c), after “;” deleting “and”;
- (b) in paragraph (e), after “;” deleting “and”; and
- (c) in paragraph (f)—
 - (i) deleting “.” and substituting “; and”; and
 - (ii) after paragraph (f), inserting the following new paragraph—

“(g) any other conditions imposed by the Comptroller.”.

Section 69A inserted

6. The Principal Act is amended after section 69 by inserting the following new section—

“Provisions relating to goods not liable to export duty

69A.—(1) Where it is not possible to assess the exact quantity or value of exported goods, the Comptroller may accept a provisional entry or security given under section 35.

(2) Where the Comptroller accepts a provisional entry for export under subsection (1), an exporter must perfect the entry of those goods within a time approved by the Comptroller which must not exceed 6 months from the date of the provisional entry.

(3) The Comptroller may, subject to such conditions as he or she deems fit and having regard to the provisions of this Act, determine the correct export value of a provisional entry accepted under subsection (2).

(4) Where a provisional entry has been accepted and the exporter fails to perfect the entry within the approved time, the relevant exporter is guilty of an offence and is liable to a fine of \$115 per entry for each day of the period of 6 months from the date of the provisional entry or after such further period as the Comptroller may allow under subsection (2).”.

Section 92 amended

7. Section 92 of the Principal Act is amended after subsection (1) by inserting the following new subsections—

“(1A) Where a brand new panel and cargo van and the like is modified by the addition of seats within 5 years from the date of importation, and such modification results in a change to the tariff classification, the vehicle is liable for the payment of additional customs duty applicable to the revised classification.

(1B) Where a used panel and cargo van and the like is modified by the addition of seats within 5 years from the date of importation, and such modification results in a change to the tariff classification, the vehicle is liable to additional customs duty applicable to the revised classification.”.

Section 92B amended

8. The Principal Act is amended by deleting section 92B and substituting the following—

“Authorised economic operator

92B.—(1) The Comptroller may, on the receipt of an application made in the approved form, approve an entity as an authorised economic operator for the purposes of encouraging compliance with customs laws and improving efficiency in customs related activities.

(2) Pursuant to subsection (1), the Minister on the advice of the Comptroller may make regulations to regulate the conduct of an authorised economic operator and the benefits and services which the AEO may be eligible for under this Act.”.

Section 98 amended

9. Section 98 of the Principal Act is amended after subsection (2) by inserting the following new subsection—

“(3) Where a claim for drawback has been rejected by the Comptroller, a relodged claim in respect of the same goods must be submitted within 30 days from the date of the rejection and must not be accepted unless the Comptroller is satisfied that there were exceptional circumstances beyond the person’s control which prevented timely relodgement.”.

Section 109 amended

10. Section 109 of the Principal Act is amended after subsection (1A) by inserting the following new subsection—

“(1B) A proper officer may use reasonable force, if necessary to detain a person.”.

Section 114B amended

11. Section 114B of the Principal Act is amended in paragraph (a) by deleting “5 years” and substituting “7 years”.

Part 18B inserted

12. The Principal Act is amended after Part 18A by inserting the following new Part—

“PART 18B—DEMERIT POINTS SYSTEM

Interpretation of this Part

143G. In this Part, unless the context otherwise requires—

“demerit points system” means a system to provide the Service with an approach to treat non-compliance and offences by a licensed person under this Act where the demerit points system will allow the Service to mitigate the risks associated with licensed person under this Act by allowing for immediate and responsive treatment options to manage the behaviors; and

“prescribed offence” means an offence under this Act.

Demerit points

143H.—(1) Subject to this Part, where a proper officer has reason to believe that a person has committed a prescribed offence, the proper officer may issue demerit points in relation to the offence by issuing a demerit points letter.

(2) A demerit point in subsection (1) must be issued by a demerit points letter to the licensed person under this Act specifying the following—

- (a) the name of the licensed person under this Act to whom the demerit point is issued;
- (b) the particulars of the prescribed offence;
- (c) the number of demerit points deducted; and
- (d) any other information prescribed by regulation.

(3) The applicable penalty awarded in column 2 of the table to this section will be determined in accordance with the number of demerit points deducted in column 1 of the table.

<i>Total demerit points deducted</i>	<i>Penalty awarded</i>
25 Demerit points	Warning letter
50 Demerit points	Pecuniary penalty
75 Demerit points	6 Months suspension
100 Demerit points	License revocation

(4) Any fine collected from the pecuniary penalty will be determined through the penalty matrix and collected by the Service in the manner and form prescribed by regulations.

(5) The fine collected in subsection (4) is to be paid by the Service into the consolidated fund.

Regulation for issuance of demerit points system

143I. The Minister on the advice of the Comptroller may make regulations to prescribe matters that is required to the prescribed or are necessary or convenient to be prescribed for the application of the demerit points system under this part, including—

- (a) the offence for which the demerit point is issued;
- (b) the demerit point to be issued to a licensed person under this Act;
- (c) the fine collected for a penalty under any prescribed offence;

- (d) the manner, form and time frames for which a demerit point is issued; and
- (e) the actions a licensed person under this Act may take on receipt of a demerit points letter under section 143H(2).”.

June 2025

CUSTOMS (BUDGET AMENDMENT) BILL 2025

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 Customs (Budget Amendment) Bill 2025 (**‘Bill’**) seeks to amend the Customs Act 1986 (**‘Act’**) to support the effective implementation of revenue policy measures and improve operational efficiency within Fiji Revenue and Customs Service, in line with the national budget priorities for the 2025-2026 financial year.
- 1.2 The Bill proposes targeted amendments to the Act to address regulatory gaps, modernise enforcement powers, and enhance transparency and accountability in customs administration.

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 2025.
- 2.2 Clause 2 of the Bill amends section 2 of the Act by updating and inserting new definitions to strengthen legal clarity. The term “authorised economic operator” is redefined to align with section 92B. New definitions for “biometric information”, “commercial transportation operator”, and “passenger name record (PNR)” are inserted to support proposed amendments relating to border management, data collection, and vehicle classification.
- 2.3 Clause 3 of the Bill introduces a new Part 5B to empower the Comptroller to require commercial transportation operators to provide passenger name record information. It outlines the purposes for which the information may be used, procedures for providing such information, disposal timelines, offences related to non-compliance, and associated penalties. The provision enhances border security and public safety through improved access to pre-arrival and departure data.

- 2.4 Clause 4 of the Bill amends section 36F(2) by extending the allowable record retention period from 5 years to 7 years, aligning with updated data management needs and the new requirements introduced in Part 5B.
- 2.5 Clause 5 of the Bill makes minor textual amendments to section 37 to add a new condition to be imposed by the Comptroller, providing greater regulatory flexibility in license conditions.
- 2.6 Clause 6 of the Bill introduces a new section, section 69A, allowing the Comptroller to accept provisional export entries where exact values or quantities are unavailable. Exporters must perfect these entries within a specified timeframe, and failure to do so incurs penalties. This provision addresses compliance risks in export declarations.
- 2.7 Clause 7 of the Bill amends section 92 of the Act by introducing new subsections to clarify that additional customs duties apply where panel or cargo vans are modified post-importation to change their classification.
- 2.8 Clause 8 of the Bill amends section 92B of the Act by substituting the existing section 92B to expand the Comptroller's powers in accrediting and regulating authorised economic operators (AEOs), including the ability to prescribe relevant benefits and standards through regulations.
- 2.9 Clause 9 of the Bill amends section 98 of the Act by introducing a new subsection requiring relodged drawback claims to be submitted within 30 days after the date of rejection, and only accepted under exceptional circumstances. The change promotes timely and accountable drawback processing.
- 2.10 Clause 10 of the Bill amends section 109 of the Act by inserting a new subsection empowering proper officers to use reasonable force when detaining a person, addressing legal clarity around operational enforcement powers during detentions.
- 2.11 Clause 11 of the Bill amends section 114B of the Act to increase the retention period for certain records from 5 years to 7 years, ensuring alignment with related amendments and operational needs.
- 2.12 Clause 12 of the Bill introduces a new Part 18B to establish a Demerit Point System applicable to licensed person under this Act. The system supports a risk-based compliance approach by assigning penalties based on cumulative demerit points. It includes thresholds for warnings, pecuniary penalties, suspension, and license revocation. The Minister on the advice of the Comptroller may make regulations for the implementation and enforcement of the system.

3.0 MINISTERIAL RESPONSIBILITY

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

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