

# BILL NO. 29 OF 2017

## A BILL

FOR AN ACT TO AMEND THE ENVIRONMENTAL LEVY ACT 2015

ENACTED by the Parliament of the Republic of Fiji—

*Short title and commencement*

**1.**—(1) This Act may be cited as the Environmental Levy (Budget Amendment) Act 2017.

(2) This Act comes into force on 1 August 2017.

(3) In this Act, the Environmental Levy Act 2015 is referred to as the “Principal Act”.

*Long title amended*

**2.** The long title of the Principal Act is amended by deleting “ENVIRONMENTAL LEVY ON PRESCRIBED SERVICE TURNOVER” and substituting “ENVIRONMENT AND CLIMATE ADAPTATION LEVY ON PRESCRIBED SERVICES, ITEMS AND INCOME”.

*Section 2 amended*

**3.** Section 2 of the Principal Act is amended by—

(a) deleting the definition of “Environmental Levy” and substituting the following—

““Environment and Climate Adaptation Levy” means a levy imposed on—

- (a) prescribed services under Part 2;
- (b) prescribed items under Part 3;
- (c) prescribed income under Part 4; and
- (d) the charter of a superyacht at the rate of 10% of the gross charter fee paid and collected under the Superyacht Charter Act 2010;”;  
and

(b) inserting the following new definitions—

““Fund” means the Environment and Climate Adaptation Fund established under section 12;

“importer” has the meaning given to that term under section 2 of the Customs Act 1986;

“plastic bag” means—

- (a) a carry bag—
  - (i) the body of which comprises, in whole or in part, polyethylene;
  - (ii) that includes handles;
  - (iii) that is provided by a prescribed business for the carrying or transporting of goods; and
  - (iv) is not an integral part of a product’s packaging; or
- (b) a bag that is of a kind prescribed by regulations;”.

*Part 2 amended*

**4.** Part 2 of the Principal Act is amended in the heading by deleting “ENVIRONMENTAL LEVY” and substituting “ENVIRONMENT AND CLIMATE ADAPTATION LEVY ON PRESCRIBED SERVICES”.

*Section 3 amended*

**5.** Section 3 of the Principal Act is amended by—

- (a) in the heading after “Levy”, inserting “for prescribed services”;
- (b) in subsection (1), deleting “a levy at the rate of 6%” and substituting “the Environment and Climate Adaptation Levy at the rate of 10%”; and
- (c) in subsection (4), deleting paragraph (b) and substituting the following—  
“(b) be clearly and separately shown on a tax invoice, invoice or receipt issued for the payment of any prescribed service.”.

*Section 4 amended*

6. Section 4 of the Principal Act is amended after subsection (3) by inserting the following new subsection—

“(4) For the purpose of ensuring that a person does not pay the Environment and Climate Adaptation Levy more than once in relation to a prescribed service, an accountable person shall—

- (a) only charge and pay the CEO the Environment and Climate Adaptation Levy that is payable for the prescribed service provided by the business under the responsibility of the accountable person; and
- (b) not charge the Environment and Climate Adaptation Levy for a prescribed service where the Environment and Climate Adaptation Levy has been charged by another person with respect to the prescribed service.”.

*Renumbering of Principal Act*

7. The Principal Act is amended by—

- (a) renumbering Part 3 as Part 6;
- (b) renumbering section 6 as section 15;
- (c) renumbering Part 4 as Part 7; and
- (d) renumbering sections 7 and 8 as sections 16 and 17, respectively.

*New Parts inserted*

8. The Principal Act is amended after section 5 by inserting the following new Parts—

“PART 3 – IMPOSITION OF ENVIRONMENT AND CLIMATE ADAPTATION  
LEVY ON PRESCRIBED ITEMS

*Division 1 – Imposition of Environment and Climate Adaptation Levy on plastic bags*

*Imposition of Environment and Climate Adaptation Levy on plastic bags*

6.—(1) An Environment and Climate Adaptation Levy shall be charged on plastic bags distributed by businesses prescribed by regulations.

(2) Pursuant to subsection (1), the Environment and Climate Adaptation Levy charged on plastic bags is \$0.10c per plastic bag.

(3) The Environment and Climate Adaptation Levy on plastic bags is payable by the person to whom a plastic bag is provided.

(4) The levy imposed under subsection (1) shall—

- (a) not be subject to the Value Added Tax imposed under the Value Added Tax Act 1991; and
- (b) be clearly and separately shown on a tax invoice, invoice or receipt issued for the purchase of any goods.

*Collection of Environment and Climate Adaptation Levy for plastic bags*

7. The Environment and Climate Adaptation Levy payable under this Division shall be collected by the Fiji Revenue and Customs Authority in the manner prescribed by regulations.

*Division 2 – Imposition of Environment and Climate Adaptation Levy on imported goods**Imposition of Environment and Climate Adaptation Levy on imported goods*

8.—(1) An Environment and Climate Adaptation Levy shall be charged on imported goods prescribed in Schedule 2 at the rate of 10% of the value of the goods.

(2) The application of the Environment and Climate Adaptation Levy on imported goods may be limited by exemptions prescribed in Schedule 2.

(3) The Environment and Climate Adaptation Levy on imported goods is payable by the importer.

(4) The levy imposed under subsection (1) shall—

- (a) not be subject to the Value Added Tax imposed under the Value Added Tax Act 1991; and
- (b) be clearly and separately shown on a tax invoice, invoice, receipt or any document issued for the payment of any imported good.

(5) The Minister may by notice in the Gazette amend the list of imported goods prescribed in Schedule 2 and the limitations or exemptions that apply to the goods.

*Collection of Environment and Climate Adaptation Levy for imported goods*

9. The Environment and Climate Adaptation Levy payable under this Division shall be collected by the Fiji Revenue and Customs Authority in conjunction with the collection of duty under the Customs Act 1986.

#### PART 4—IMPOSITION OF ENVIRONMENT AND CLIMATE ADAPTATION LEVY ON PRESCRIBED INCOME

*Imposition of Environment and Climate Adaptation Levy on prescribed income*

10. An Environment and Climate Adaptation Levy at the rate of 10% shall be charged on income as prescribed by regulations and shall form part of the Social Responsibility Tax under the Income Tax Act 2015.

*Collection of Environment and Climate Adaptation Levy for prescribed income*

11. The Environment and Climate Adaptation Levy imposed under this Part shall be collected as part of the Social Responsibility Tax under the Income Tax Act 2015.

#### PART 5—ENVIRONMENT AND CLIMATE ADAPTATION FUND

*Establishment of the Environment and Climate Adaptation Fund*

12.—(1) This section establishes the Environment and Climate Adaptation Fund.

(2) The Fund shall consist of—

- (a) any money paid to the Fiji Revenue and Customs Authority in relation to the Environment and Climate Adaptation Levy imposed under this Act;
- (b) any interest accrued from money deposited in the Fund;
- (c) any money appropriated by Parliament for the purposes of the Fund; and
- (d) such sums of money received for the purposes of the Fund under written law or from any other source approved by the Minister.

(3) The Fiji Revenue and Customs Authority must pay money collected for the payment of the Environment and Climate Adaptation Levy into the Fund.

(4) No part of the Fund may be transferred or assigned to any person other than in accordance with this Act.

(5) The Trustee Act 1966 does not apply to the Fund.

*Purposes of the Fund*

13. The purposes of the Fund are to—

- (a) promote conservation of the forests, flora, fauna, wildlife, ecosystems and biodiversity of Fiji;
- (b) provide funding to assist programmes, projects and activities associated with climate change, including climate change mitigation and adaptation activities; and
- (c) engage in any environment or climate change related activity approved by the Minister.

*Application of Fund*

14.—(1) The Ministry must only expend the monies of the Fund for the purposes provided under section 13.

(2) No payments may be made from the Fund without the authorisation of the permanent secretary responsible for finance.

(3) The expenditure of the Fund shall be published by the Ministry and made publicly available.”.

*Schedule amended*

**9.** The Schedule to the Principal Act is amended by deleting “SCHEDULE” and substituting “SCHEDULE 1”.

*New Schedule 2 inserted*

**10.** The Principal Act is amended after the Schedule by inserting the following new Schedule—

**“SCHEDULE 2**  
*(Section 8)*

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**IMPORTED GOODS**

Imported goods	Conditions or exemptions (if any)
New or re-conditioned luxury vehicles with engine capacity exceeding 3000cc	Exemptions and conditions: Vehicles used for public transportation, liquid petroleum gas, compressed natural gas, solar vehicles, electric vehicles, and vehicles procured by anyone under concession codes 201A, 203, 204, 205, 206, 220 column 2(iii) and 287 of Schedule 2, Part 3 to the Customs Tariff Act 1986 provided that any person or body exempted from paying the Environment and Climate Adaptation Levy under the above concession codes who at any time within 5 years from the date of importation or delivery from the warehouse of such vehicles, sells or disposes such vehicles to any non-entitled persons or bodies other than those specified under the above concession codes, shall be liable to pay the Environment and Climate Adaptation Levy on a pro-rata basis for the unused period of the vehicle.”

*Miscellaneous amendments*

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

- (a) deleting “the Schedule” wherever it appears and substituting “Schedule 1”; and
- (b) deleting “Commissioner” wherever it appears and substituting “CEO”.

*Amendment to references to “Environmental Levy”*

**12.** All written laws and all State documents of any nature whatsoever (including the titles of any written law) are amended by deleting “Environmental Levy” wherever it appears and substituting “Environment and Climate Adaptation Levy”, unless the context otherwise requires.

## ENVIRONMENTAL LEVY (BUDGET AMENDMENT) BILL 2017

### EXPLANATORY NOTE

*(This note is not part of the Bill and is only intended to indicate its general effect)*

#### 1.0 BACKGROUND

- 1.1 The Environmental Levy Act 2015 (**‘Act’**) was enacted in 2015 to provide for an Environmental Levy (**‘Levy’**) on prescribed services at the rate of 6% of the turnover of the business that provides the prescribed service.
- 1.2 The Environmental Levy (Budget Amendment) Bill 2017 (**‘Bill’**) seeks to amend the Act to extend the application of the Levy to plastic bags, imported goods, the charter fee of a superyacht and prescribed income as part of Social Responsibility Tax.
- 1.3 The Bill also changes the name of the Levy to the “Environment and Climate Adaptation Levy” and sets up the Environment and Climate Adaptation Fund (**‘Fund’**) for greater transparency and accountability.

#### 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 2017.
- 2.2 Clause 2 of the Bill amends the long title of the Act to extend the purpose of the Act to include prescribed items and income.
- 2.3 Clause 3 of the Bill amends section 2 of the Act to replace the definition of “Environmental Levy” with a new definition that allows for the application of the Levy to prescribed items, income and on the gross charter fee of a superyacht. Clause 3 also inserts new definitions that assist with the interpretation of the Act.
- 2.4 Clause 4 of the Bill amends the heading of Part 2 to clarify that the Levy in Part 2 applies to prescribed services.

- 2.5 Clause 5 of the Bill amends section 3 of the Act to change the rate of the Levy from 6% of turnover to 10%. Clause 5 also amends section 3 to provide for the requirement that the Levy must be clearly displayed on a tax invoice.
- 2.6 Clause 6 of the Bill amends section 4 of the Act to insert a new subsection (4) to ensure that a person does not pay the Levy more than once in relation to a prescribed service.
- 2.7 Clause 7 of the Bill amends the Act as a whole to renumber Parts 3 to 4 and their respective sections. This is done to accommodate the expanded application of the Levy.
- 2.8 Clause 8 of the Bill amends the Act to insert the new Parts 3 to 5, consisting of sections 6 to 14. The newly inserted Parts 3 and 4 provide for the imposition of the Levy on plastic bags at \$0.10c a bag, on prescribed imported goods at 10% of the value of the imported goods and on prescribed income as a part of the Social Responsibility Tax under the Income Tax Act 2015 at the rate of 10%. The newly inserted Part 5 provides for the establishment of the Fund and sets out its purposes and application.
- 2.9 Clause 9 of the Bill amends the Act to change the numbering for the current Schedule to accommodate the insertion of a new Schedule.
- 2.10 Clause 10 of the Bill amends the Act by inserting a new Schedule that sets out the prescribed imported goods under Part 3 of the Act and the exemptions and conditions that apply to them.
- 2.11 Clause 11 of the Bill amends the Act to accommodate the changes made to terms used in the Act.
- 2.12 Clause 12 of the Bill amends all written laws and State documents to change all references to the “Environmental Levy” to “Environment and Climate Adaptation Levy”.

### **3.0 MINISTERIAL RESPONSIBILITY**

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

A. SAYED-KHAIYUM  
Attorney-General