

# BILL NO. 13 OF 2019

## A BILL

### FOR AN ACT TO AMEND THE EXCISE ACT 1986

ENACTED by the Parliament of the Republic of Fiji—

*Short title and commencement*

- 1.—(1) This Act may be cited as the Excise (Budget Amendment) Act 2019.
- (2) This Act comes into force on 1 August 2019.
- (3) In this Act, the Excise Act 1986 is referred to as the “Principal Act”.

*Section 18A inserted*

2. The Principal Act is amended after section 18 by inserting the following new section—

*“Expiry of goods deposited in an excise warehouse*

18A.—(1) The Comptroller must, in issuing a licence under section 17 or permitting the deposit of excisable goods in an excise factory, excise warehouse or export warehouse or such other places as may be specifically authorised by the Comptroller, ascertain the expiry of those goods and determine the date by which payment of any excise duty, fee or other charge for those goods must be made.

(2) For the purposes of subsection (1), the Comptroller may require a warehouse keeper to, within a time specified by the Comptroller, ensure that the excisable goods are cleared before the expiration of those goods and notify the owners of the goods to make payment for those goods within a time specified by the Comptroller.

(3) Where a person fails to clear and make payment for goods in an excise factory, excise warehouse or export warehouse or such other places as may be specifically authorised by the Comptroller within the time specified under subsection (2), the goods may, with the prior written permission of the Comptroller, be destroyed or disposed of in such manner as the Comptroller may direct.

(4) Any goods which have been destroyed or disposed of in accordance with subsection (3) must not be considered for the purposes of assessing a refund, claim or remission under Part 6.

(5) A person is guilty of an offence if the person fails to clear and make payment for the goods in an excise factory, excise warehouse or export warehouse or such other places as may be specifically authorised by the Comptroller within the time specified under subsection (2) and is liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.”.

*Section 31 amended*

**3.** Section 31 of the Principal Act is amended by—

(a) after subsection (2), inserting the following new subsection—

“(2A) Subsections (2) and (4) do not apply to a mission, international organisation or international body that is exempt from any excise duty, fee or other charge in accordance with any written law.”; and

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

“(4) A claim for a refund under this Act is not admissible if the person making the claim has failed to—

(a) file returns in accordance with section 28 or provide any document or information required under this Act; or

(b) make the claim within one year of the payment unless the refund is attributable to an error made by the Service.”.

*Section 31A amended*

**4.** Section 31A of the Principal Act is amended after subsection (2) by inserting the following new subsection—

“(3) The Comptroller must only pay a refund of overpaid excise duty, fee or other charge to a person under this Act to the person’s bank account held at a commercial trading bank.”.

*Section 31B inserted*

**5.** The Principal Act is amended after section 31A by inserting the following new section—

*“Excise refunds may be set off against excise duty, fee or other charge payable*

31B. If the Comptroller is required to pay a refund of overpaid excise duty, fee or other charge to a person under this Act, the Comptroller must—

- (a) first apply the amount of the refund against any excise duty, fee or other charge owing by the person under this Act and then refund the balance; and
- (b) notify the person, or the person’s agent or representative, of the decision in paragraph (a) in writing.”.

*Office of the Attorney-General  
Suvavou House  
Suva*

*June 2019*

## **EXCISE (BUDGET AMENDMENT) BILL 2019**

### **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 Excise (Budget Amendment) Bill 2019 ('**Bill**') seeks to amend the Excise Act 1986 ('**Act**') to address budgetary policy changes in the 2019-2020 Budget.

#### **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 2019.

2.2 Clause 2 of the Bill inserts a new section 18A for provisions relating to the expiry of goods deposited in an excise factory, excise warehouse or export warehouse. The proposed section deals with the determination of payment of any excise duty, fee or other charge based on the expiry of goods.

2.3 Clause 3 of the Bill amends section 31 of the Act by inserting new subsections (2A) and (4) to better regulate the process of refunds of overpaid duty, fee or other charge under the Act. It also inserts a provision for refund claims made by a mission, international organisation or international body that is exempt from excise duty under any other written law.

2.4 Clause 4 of the Bill amends section 31A of the Act to require the depositing of refunds into bank accounts held at commercial trading banks.

2.5 Clause 5 of the Bill inserts a new section 31B to allow the Comptroller to deduct excise duty, fee or other charge owing by a person under the Act before paying a refund to that person.

#### **3.0 MINISTERIAL RESPONSIBILITY**

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

A. SAYED-KHAIYUM  
Attorney-General