

BILL NO. 11 OF 2021

A BILL

FOR AN ACT TO AMEND THE ENVIRONMENT AND CLIMATE ADAPTATION 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 Environment and Climate Adaptation Levy (Budget Amendment) Act 2021.

(2) This Act comes into force on 1 August 2021.

(3) In this Act, the Environment and Climate Adaptation Levy Act 2015 is referred to as the “Principal Act”.

Sections 9C and 9D inserted

2. The Principal Act is amended after section 9B by inserting the following new sections—

“Refunds

9C.—(1) Where the Environment and Climate Adaptation Levy has been levied and paid and repayment of the Environment and Climate Adaptation Levy or of any portion of it is claimed on the ground that the Environment and Climate Adaptation Levy was levied or paid inadvertently or erroneously, and if the CEO is satisfied that such claim is correct, the excess amount is to be refunded.

2 *Environment and Climate Adaptation Levy (Budget Amendment)*— of 2021

- (2) Any sum to be refunded is a charge on the Consolidated Fund.
- (3) Subject to subsection (4), no repayment is to be made by the CEO for claims made more than one year from the date of the payment.
- (4) Subsections (3) and (7) do not apply to a mission, international organisation or international body that is exempt from any duty or tax in accordance with any written law.
- (5) The CEO may only pay a refund to a bank account in a commercial trading bank.
- (6) The CEO must not refund the Environment and Climate Adaptation Levy directly to claimants.
- (7) A claim for a refund is not admissible if the person making the claim has failed to—
 - (a) file an entry in accordance with the Customs Act 1986 or provide any documents or information as required under any customs law; and
 - (b) make a claim within one year of the payment unless the refund is attributable to an error made by the Service.
- (8) If the Environment and Climate Adaptation Levy has been erroneously refunded, the CEO may, within one year from the date on which such sum was refunded, demand repayment of such sum and may recover such sum in a court of competent jurisdiction.
- (9) Notwithstanding anything in any other tax law, the CEO may refrain from—
 - (a) collecting the Environment and Climate Adaptation Levy, if the amount of the Environment and Climate Adaptation Levy to be collected does not exceed \$10; or
 - (b) refunding the Environment and Climate Adaptation Levy, if the amount of the Environment and Climate Adaptation Levy to be refunded does not exceed \$50.

Refunds may be set off against duty, fee or other charge payable

9D. If the CEO is required to pay a refund of the Environment and Climate Adaptation Levy to a person, the CEO must—

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

Schedule 2 amended

3. Schedule 2 to the Principal Act is amended by—

- (a) after the header row, numbering the rows as rows 1 to 16;
- (b) in rows 4 and 13 after “206,”, inserting “212, 218, 218A, 219A,”; and
- (c) in rows 5 to 12 and 14 to 16, deleting “220 column 2(iii), 232” wherever it appears and substituting “212, 218, 218A, 219A, 220 column 2(iii), 232, 235, 235A”.

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July 2021

ENVIRONMENT AND CLIMATE ADAPTATION LEVY (BUDGET AMENDMENT) BILL 2021

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 Environment and Climate Adaptation Levy (Budget Amendment) Bill 2021 (**‘Bill’**) seeks to amend the Environment and Climate Adaptation Levy Act 2015 (**‘Act’**).

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 2021.
- 2.2 Clause 2 of the Bill amends the Act to insert section 9C which provides for refunds to persons where the Environment and Climate Adaptation Levy has been levied or paid inadvertently or erroneously.
- 2.3 Clause 2 of the Bill also inserts section 9D which provides that refunds may first be used to pay any other outstanding duty, fee or charge owed by the claimant before being paid to the claimant.
- 2.4 Clause 3 of the Bill amends Schedule 2 to the Act to exempt items listed under concession codes 212, 218, 218A, 219A, 235 and 235A of the Customs Tariff Act 1986. Concession codes 212, 218, 218A and 219A pertain to personal imports, goods imported by travelling passengers and crew and unaccompanied luggage, and concession codes 235 and 235A pertain to goods imported for hotels and resorts.

3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General