

BILL NO. 31 OF 2018

A BILL

FOR AN ACT TO AMEND THE PUBLIC HEALTH ACT 1935

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Public Health (Budget Amendment) Act 2018.
- (2) This Act comes into force on 1 August 2018.
- (3) In this Act, the Public Health Act 1935 is referred to as the “Principal Act”.

Section 10 amended

2. Section 10(1) of the Principal Act is amended by—

(a) in paragraph (a)—

- (i) after “a city or town”, inserting “,”; and
- (ii) after “,”, inserting “and”;

(b) deleting paragraphs (b) and (c) and inserting the following new paragraph—

“(b) for any part of Fiji which is not part of a city or town, the Board or any person or body appointed by the Board.”.

Section 24 amended

3. Section 24 of the Principal Act is amended after “if of” by inserting “the”.

Part 5 deleted

4. The Principal Act is amended by deleting Part 5.

Section 66A inserted

5. The Principal Act is amended after section 66 by inserting the following new section—

“Regulations

66A. The Board may, with the approval of the Minister, make regulations to prescribe matters that are required or permitted by this Part to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Part and generally for achieving the purposes of this Part.”.

Section 80 amended

6. Section 80 of the Principal Act is amended by—

(a) in the heading, deleting “local authorities” and substituting “town and city councils”; and

(b) deleting subsection (2) and substituting the following—

“(2) All sums of money expended by a town or city council under the authority of or in pursuance of the provisions of this Act shall, unless otherwise provided for, be paid out of the funds of the town or city council.”.

Section 98 amended

7. Section 98 of the Principal Act is amended by deleting paragraph (f).

Part 17 inserted

8. The Principal Act is amended after section 141 by inserting the following new Part—

“PART 17—TRANSITION*Transfer of functions and powers of local authorities in rural districts and Board*

142.—(1) Notwithstanding any other provision in this Act or any other written law, any function or power that relates to health services and is conferred by this Act or any other written law on a local authority in a rural district existing immediately before 1 August 2018, shall be performed or exercised by the Board from 1 August 2018.

(2) Notwithstanding any other provision in this Act or any other written law, any function or power that does not relate to health services and is conferred by this Act or any other written law on a local authority in a rural district existing immediately before 1 August 2018, shall be performed or exercised by a municipal council designated under section 6A of the Local Government Act 1972 from 1 August 2018.

(3) Notwithstanding any other provision in this Act or any other written law, any function or power that does not relate to health services and is conferred by this Act or any other written law on the Board existing immediately before 1 August 2018, shall be performed or exercised by a municipal council designated under section 6A of the Local Government Act 1972 from 1 August 2018.

Regulations

143.—(1) The Minister may make regulations to prescribe matters that are required or permitted by this Part to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Part and generally for achieving the purposes of this Part.

(2) Without affecting the generality of subsection (1), the Minister may make regulations prescribing—

- (a) the definition of health services;
- (b) with respect to a local authority in a rural district or the Board, the transfer of—
 - (i) assets, interests, privileges, liabilities, rights or obligations;
 - (ii) employees; and
 - (iii) deeds, bonds, agreements, instruments or arrangements, existing immediately before 1 August 2018;
- (c) with respect to a local authority in a rural district or the Board, the continuation of any action, arbitration, proceeding or cause of action existing immediately before 1 August 2018; and
- (d) any other matter with respect to the disbandment of a local authority in a rural district existing immediately before 1 August 2018.”.

Consequential amendments

9.—(1) The Employment Relations Act 2007 is amended by—

- (a) in section 4 in the definition of “local authority”, deleting “a rural authority” and substituting “the Central Board of Health”; and
- (b) in section 185—
 - (i) in the definition of “employer” in paragraph (c), deleting “rural authority” and substituting “the Central Board of Health”;
 - (ii) in the definition of “essential service and industry” or “essential services and industries” in paragraph (c), deleting “rural authority” and substituting “the Central Board of Health”; and
 - (iii) in the definition of “worker” in paragraph (c), deleting “rural authority” and substituting “the Central Board of Health”.

(2) The Environment Management Act 2005 is amended in section 2 in the definition of “local authority” by deleting paragraph (b) and substituting the following—

“(b) for rural areas—

- (i) in relation to a non-health service, the municipal council designated under section 6A of the Local Government Act 1972; or
- (ii) in relation to a health service, the Central Board of Health;”.

(3) The Income Tax Act 2015 is amended in section 2 in the definition of “remote area” by deleting “rural local authority,”.

(4) The Land Transport Act 1998 is amended in section 2 in the definition of “stand” by deleting “or rural local authority”.

(5) The Liquor Act 2006 is amended in section 2 in the definition of “local authority” by deleting paragraph (b) and substituting the following—

“(b) for rural areas, the municipal council designated under section 6A of the Local Government Act 1972 or the Central Board of Health, as applicable;”.

(6) The Litter Act 2008 is amended by—

- (a) in section 2 in the definition of “public authority”, deleting paragraphs (b) and (c) and inserting the following new paragraph—
“(b) the relevant municipal council;”; and
- (b) in section 3(2), deleting “or (c)”.

(7) The Local Government Act 1972 is amended by—

(a) after section 6, inserting the following new section—

“Functions and powers of local authorities in rural districts and Central Board of Health

6A.—(1) Notwithstanding any other provision in this Act or any other written law, any function or power that does not relate to health services and is conferred by this Act or any other written law on a local authority in a rural district existing immediately before 1 August 2018, shall be performed or exercised by a municipal council designated under subsection (3) from 1 August 2018.

(2) Notwithstanding any other provision in this Act or any other written law, any function or power that does not relate to health services and is conferred by this Act or any other written law on the Central Board of Health existing immediately before 1 August 2018, shall be performed or exercised by a municipal council designated under subsection (3) from 1 August 2018.

(3) For the purposes of subsections (1) and (2), the Minister shall, by notice in the Gazette—

- (a) declare any rural area outside a town boundary as an area to which specified provisions of this Act apply; and
- (b) designate a municipal council to perform the functions and exercise the powers which were performed or exercised by a local authority in a rural district or the Central Board of Health immediately before 1 August 2018.”; and

(b) after section 121, inserting the following new Division—

“Division 6—Sanitary Services

Sanitary services to be approved by Council

121A. All schemes for the disposal of nightsoil, collection of garbage or other sanitary services shall, before being put into operation, be submitted to the appropriate Council for approval, and no such scheme shall be put into operation until the approval of the Council has been obtained.

Permit from Council

121B. No person shall engage in the business of carrying or removing nightsoil or garbage except with a permit from the Council and any person so engaging without such permit shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100.”.

(8) The Tax Administration Act 2009 is amended in section 38(7)(c) by deleting “, including any rural local authority”.

July 2018

PUBLIC HEALTH (BUDGET AMENDMENT) BILL 2018

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 Public Health Act 1935 (**'Act'**) provides for the regulation of public health.
- 1.2 The Public Health (Budget Amendment) Bill 2018 (**'Bill'**) seeks to amend the Act to align policy changes introduced by the 2018-2019 Budget, in particular, the move of the functions of local authorities in rural districts from the Ministry of Health and Medical Services to the Ministry of Local Government.
- 1.3 The Bill also seeks to align the functions of the Central Board of Health (**'Board'**) to functions that are directly related to a health service.
- 1.4 In this way, non-health related functions of local authorities under the Act and other written laws come under the ambit of the Ministry of Local Government and direct health aspects remain with the Ministry of Health and Medical Services.

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 2018.
- 2.2 Clause 2 of the Bill amends section 10(1) of the Act by providing that the local authority for any part of Fiji which is not part of a city or town is the Board or any person or body appointed by the Board.
- 2.3 Clause 3 of the Bill amends section 24 of the Act to correct a grammatical error in the provision.
- 2.4 Clause 4 of the Bill is amended by deleting Part 5 of the Act to align to the proposed new section 142 where the provision of, *inter alia*, sanitary services is to be administered under the Local Government Act 1972 which is consequentially amended to reflect this.

- 2.5 Clause 5 of the Bill amends the Act by inserting a new section 66A enabling the Board, with the approval of the Minister, to make regulations to give effect to the provisions of Part 6.
- 2.6 Clause 6 of the Bill amends section 80 of the Act in the heading by deleting “local authorities” and substituting “town and city councils”. Clause 6 of the Bill further amends section 80 of the Act by specifying that expenditure by a town or city council for the performance of its functions and exercise of its powers under the Act are paid out of the funds of that council.
- 2.7 Clause 7 of the Bill amends section 98 of the Act by deleting paragraph (f).
- 2.8 Clause 8 of the Bill amends the Act by including a new Part 17 to provide that from 1 August 2018 the functions and powers of a local authority in a rural district and the Board in relation to health services will be performed and exercised by the Board and in relation to non-health services will be performed and exercised by a designated municipal council under the Local Government Act 1972.
- 2.9 Clause 9 of the Bill provides for consequential amendments to the following legislation to align them to the amendments made by the Bill—
- (i) Employment Relations Act 2007;
 - (ii) Environment Management Act 2005;
 - (iii) Income Tax Act 2015;
 - (iv) Land Transport Act 1998;
 - (v) Liquor Act 2006;
 - (vi) Litter Act 2008;
 - (vii) Local Government Act 1972; and
 - (viii) Tax Administration Act 2009.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for health and medical services.

A. SAYED-KHAIYUM
Attorney-General