

GOVERNMENT OF FIJI GAZETTE SUPPLEMENT

No. 31

FRIDAY, 4th AUGUST

2017

[LEGAL NOTICE NO. 67]

LAND TRANSPORT (BUDGET AMENDMENT) ACT 2017

Commencement Notice

IN exercise of the powers vested in me by section 1(2) of the Land Transport (Budget Amendment) Act 2017, I hereby appoint 1 August 2017 as the commencement date of the Land Transport (Budget Amendment) Act 2017.

Dated this 4th day of August 2017.

P. K. BALA

Minister for Infrastructure and Transport

[LEGAL NOTICE NO. 68]

LAND TRANSPORT ACT 1998

Land Transport (Public Service Vehicles) (Amendment) Regulations 2017

IN exercise of the powers conferred on me by section 113 of the Land Transport Act 1998, I hereby make these Regulations —

Short title and commencement

1.—(1) These Regulations may be cited as the Land Transport (Public Service Vehicles) (Amendment) Regulations 2017.

(2) These Regulations are deemed to have come into force on 1 August 2017, except for—

(a) regulation 8, which comes into force on 1 October 2017; and

(b) regulations 2, 3, 4, 5, 6, 7 and 10, which come into force on 1 January 2018.

(3) In these Regulations, the Land Transport (Public Service Vehicles) Regulations 2000 is referred to as the “Principal Regulations”.

New Part 2, Division 1 heading inserted

2. The Principal Regulations are amended after the heading for Part 2 by inserting “Division 1 —General applications” as the new Division 1 heading.

Regulation 3 amended

3. Regulation 3 of the Principal Regulations is amended by—

- (a) in subregulation (1) after “a permit”, inserting “in accordance with this Division or, in the case of a taxi permit, in accordance with Division 2”;
- (b) deleting subregulation (5); and
- (c) in subregulation (8), deleting paragraph (a).

Regulation 4 amended

4. Regulation 4(2) of the Principal Regulations is amended by—

- (a) after “apply”, inserting “to”;
- (b) in paragraph (a) before “an”, deleting “to”;
- (c) in paragraph (b), deleting “or”;
- (d) in paragraph (c)—
 - (i) deleting “to”; and
 - (ii) deleting “.” and substituting “; or”; and
- (e) after paragraph (c), inserting the following new paragraph—

“(d) an application for a taxi permit.”.

New Division 2 inserted

5. The Principal Regulations are amended after regulation 5 by inserting the following new Division—

*“Division 2—Taxi permits**Division 2 interpretation*

5A.—(1) In this Division, unless the context otherwise requires—

“applicant’s household” means the occupants of the applicant’s dwelling house who are financially dependent on each other, an occupant of the dwelling house or an immediate family member of an occupant;

“application” means an application for the issuance of a taxi permit;

“application cessation date” means—

- (a) 1 January 2018, for an application lodged on or before 1 January 2018; or
- (b) 21 days after the date of the last advertisement, for an application lodged after 1 January 2018;

“committee” means a committee appointed under regulation 5D; and

“last advertisement” means the last advertisement for an available taxi permit under regulation 5B(4).

(2) For the avoidance of doubt, Division 1 does not apply to an application for a taxi permit.

Transport zones

5B.—(1) The Chief Executive must determine transport zones in Fiji and a reasonable quota for taxi permits to be issued for each transport zone.

(2) A taxi permit issued under this Division must be issued in respect of a transport zone.

(3) Subject to regulation 18A(6)(a), the Chief Executive must advertise the taxi permits available for each transport zone by publishing a notice in at least one newspaper published in the English language and circulating throughout Fiji.

(4) The Chief Executive may advertise the available taxi permits more than once, and must cause it to be clearly stated in the last advertisement that such advertisement is the last advertisement.

Taxi permit applications

5C. A person seeking the issuance of a taxi permit must apply to the Chief Executive within 21 days from the date of the last advertisement and must do so in accordance with the process set out in this Division.

Taxi permit review committee

5D.—(1) The Chief Executive must appoint a committee for the purposes of—

- (a) reviewing applications in respect of a transport zone;
- (b) ensuring that an application is complete; and
- (c) determining whether the applicant meets the eligibility criteria for the issuance of a taxi permit set out in regulation 5E(2).

(2) Each committee must have 5 members and consist of—

- (a) a legal practitioner as defined in the Legal Practitioners Act 2009;
- (b) a representative from the ministry responsible for strategic planning;
- (c) a representative of the tourism industry;
- (d) a representative of the transport industry; and
- (e) a general representative of the private sector.

(3) The Chief Executive shall determine the procedures of the committee and provide secretariat support to the committee.

Review of applications

5E.—(1) The committee must review all applications in respect of a transport zone and provide a list of eligible applicants to the Chief Executive within 14 days from the application cessation date.

(2) An applicant is eligible for a taxi permit if—

- (a) the application complies with regulation 5C;
- (b) the application is in the prescribed form;
- (c) the application is accompanied by the prescribed fee;

- (d) the applicant is a natural person;
- (e) the applicant is a Fijian citizen;
- (f) the applicant resides in the transport zone for which the application was made;
- (g) the applicant has never been convicted of an offence under Part 12B, 16 or 17 of the Crimes Act 2009 or a similar provision of a repealed law or a law or repealed law of another jurisdiction;
- (h) the applicant does not hold and has never held a taxi permit;
- (i) each member of the applicant's household does not hold and has never held a taxi permit; and
- (j) the total annual income of the members of the applicant's household does not exceed \$20,000.

(3) If an application is incomplete or if the committee requires additional information, the committee may request that the applicant complete the application or submit the information.

(4) The committee must reject an application if the applicant is not eligible under subregulation (2) or fails to complete the application or provide the information as requested under subregulation (3).

(5) The committee must notify the applicant in writing of the committee's decision to approve or reject the application within 14 days from the application cessation date.

(6) An applicant is deemed to have received the committee's notification under subregulation (5)—

- (a) if the notification is personally served upon the applicant, at the time of service;
- (b) if the committee sends the notification by electronic mail to the applicant's electronic mailing address, at the time of receipt of the electronic mail in accordance with the Electronic Transactions Act 2008; or
- (c) if the committee posts the notification to the postal address of the applicant provided by the applicant, at the time of posting.

Appeals

5F.—(1) If the committee rejects an application under regulation 5E(4), the applicant may appeal the committee's decision to the Authority within 21 days from the date the applicant receives notification of the decision under regulation 5E(6).

(2) An appeal may only be lodged on the ground that the applicant was eligible under regulation 5E(2) at the time the application was reviewed.

(3) The Authority must allow or dismiss an appeal within 42 days from the application cessation date.

(4) If the Authority allows an appeal, the Authority must notify the—

- (a) Chief Executive, of the name of the eligible applicant; and
- (b) eligible applicant, of the decision to allow the appeal,

within 2 days of the Authority's decision.

(5) If the Authority dismisses an appeal, the Authority must provide the applicant with written reasons for its decision within 2 days of the Authority's decision.

(6) Notwithstanding anything contained in these Regulations, the decision of the Authority under this regulation is final and not subject to further review.

Issuance of taxi permit

5G.—(1) The Chief Executive must appoint a date, time and venue for the drawing of the names of successful applicants.

(2) The date appointed by the Chief Executive must be—

- (a) subject to paragraph (b), within 7 days from the date of receipt of the names of the eligible applicants from the committee; or
- (b) if appeals have been made in accordance with regulation 5F, within 7 days from the date of receipt of the names of the eligible applicants from the Authority.

(3) On the date and at the time and venue appointed under subregulation (1), the Chief Executive must, before all persons present—

- (a) announce the transport zone and number of taxi permits available for the transport zone;
- (b) prepare a list of all eligible applicants in alphabetical order with the last name, if any, of the eligible applicant appearing before the first name and assign each eligible applicant a number;
- (c) read out the list of eligible applicants and their assigned numbers under paragraph (b);
- (d) place a number of balls equal to the number of eligible applicants, being balls of equal size and weight and each of which is distinctly marked with its own number corresponding to the number assigned to an eligible applicant under paragraph (b), in a container large enough to allow all the balls to move about freely when the container is rotated;
- (e) rotate the container and permit any other person present who wishes to do so, to rotate the container;
- (f) cause a person who is blindfolded and has been blindfolded prior to the rotation of the container in accordance with paragraph (e), to take the balls, or cause the balls, equivalent to the number of taxi permits under paragraph (a), to come out of the container one by one and, as each ball is taken or comes out, pass it to the Chief Executive who must call out the number on the ball; and

- (g) place or allocate to the eligible applicant whose assigned number has been called out, a taxi permit.

(4) The Authority must issue a taxi permit to a person whose name is drawn pursuant to this regulation and such person must begin operating a taxi service within 3 months from the date the taxi permit is issued.”.

New Part 2, Division 3 heading inserted

6. The Principal Regulations are amended after regulation 5G by inserting “Division 3—General provisions” as the new Division 3 heading.

Regulation 7 amended

7. Regulation 7 of the Principal Regulations is amended after subregulation (1) by inserting the following new subregulation—

“(1A) A permit is subject to the following conditions—

- (a) the permit holder must pay a prescribed annual fee to the Authority;
- (b) in the case of an individual, the permit holder must be a Fijian citizen who ordinarily resides in Fiji;
- (c) in the case of a company, the permit holder must be a company registered under the Companies Act 2015, the controlling interest of which is held by a person or persons who are Fijian citizens who ordinarily reside in Fiji; and
- (d) in the case of a taxi permit, the holder of a taxi permit issued in respect of a transport zone must service the transport zone for which the taxi permit has been issued.”.

Regulation 10 amended

8. Regulation 10 of the Principal Regulations is amended by—

- (a) in subregulation (1), deleting “3 years” and substituting “10 years”; and
- (b) deleting subregulation (2) and substituting the following—

“(2) A road permit in respect of a—

- (a) road route licence, must be issued for a period of 15 years;
- (b) road contract licence, may be issued for a period of up to 10 years; and
- (c) carrier licence, must be issued for a period of 10 years.”.

New regulation 10A inserted

9. The Principal Regulations are amended by inserting after regulation 10 the following new regulation—

“Renewal of permits

10A.—(1) A permit may be renewed if—

- (a) the holder of the permit is not liable to any pending fines under the Act or subsidiary laws made under the Act;

- (b) the service that the permit holder provides meets the requirements set out in regulations 20A and 22; and
- (c) subject to subregulation (2), the application for renewal—
 - (i) for a road route licence in relation to a road permit, is lodged at least 3 months prior to the expiry of the permit; or
 - (ii) for any other permit, is lodged within 3 months from the date the permit expires.

(2) The Authority may consider an application for the renewal of a person's permit beyond the time prescribed under subregulation (1)(c) if the person proves that the person was not responsible, by act or omission, for the person's failure to renew the permit.

(3) For the avoidance of doubt, the holder of a permit that has expired and has not been renewed is not entitled to the benefits under the permit.”.

Regulation 11 amended

10. The Principal Regulations are amended by deleting regulation 11 and substituting the following new regulations—

“Sale of permits

11.—(1) Subject to the provisions of these Regulations, the holder of a permit may sell such permit.

(2) The purchaser of a permit must notify the Authority of the purchase of a permit for the purposes of regulation 11A.

Transfer of permits

11A.—(1) In this regulation, “financial institution” means any financial institution within the meaning of the Banking Act 1995, credit union registered under the Credit Unions Act 1954, any friendly society registered under the Friendly Societies Act 1878 and the Fiji Development Bank.

(2) The Authority may transfer a permit under the following circumstances—

- (a) to the purchaser of a permit under an agreement for the *bona fide* sale and purchase of the permit between the permit holder and the purchaser;
- (b) to a financial institution with a security interest in the permit where the financial institution proves to the satisfaction of the Authority that the financial institution has the right to take possession of the permit under default of a security agreement;
- (c) to the purchaser of a permit where a financial institution with a security interest in the permit takes possession of the permit under paragraph (b) and sells the permit to the purchaser for the recovery of the remainder of the permit holder's debt to the financial institution;
- (d) to the personal representative of the permit holder appointed in accordance with the Succession, Probate and Administration Act 1970 in the case of the death of the permit holder; or

- (e) to the legally appointed representative of a permit holder where the permit holder suffers from a mental disorder, mental illness or is of unsound mind.
- (3) The transfer of a permit under subregulation (2) shall—
 - (a) only be effected after the payment of the prescribed fee; and
 - (b) be recorded in the registry established under section 66A of the Act.
- (4) A permit that has been transferred under this regulation must be varied to appear under the name of the transferee.
- (5) For the avoidance of doubt—
 - (a) the transfer of a permit is the transfer of the unexpired term of the permit; and
 - (b) if a permit is transferred, the transferee of the permit is subject to any conditions of the permit.”.

New regulation 18A inserted

11. The Principal Regulations are amended after regulation 18 by inserting the following new regulation—

“Part 2 transitional

18A.—(1) In this regulation—

“priority applications” means pending applications for taxi permits lodged on or before 31 December 2017; and

“resident” means an individual who is a Fijian citizen who ordinarily resides in Fiji or a company registered under the Companies Act 2015, the controlling interest of which is held by a person or persons who are Fijian citizens who ordinarily reside in Fiji.

(2) Subject to subregulations (3) and (4), the Authority must, in accordance with section 64(2) of the Act, renew a permit issued under the Act if an application for the renewal of the permit was lodged by the permit holder on or after 10 July 2000 and was not renewed by the Authority solely on the ground that the application for renewal was lodged after the prescribed time period at the time it was lodged.

(3) For the purposes of subregulation (2), a permit may only be renewed if—

- (a) a new application for renewal is lodged by the permit holder on or before 30 September 2017;
- (b) the permit holder is a resident;
- (c) the Authority is satisfied that the permit holder is not in breach of the Act, any subsidiary laws made under the Act or any condition attached to the permit; and
- (d) the Authority is satisfied from its own records or, where the Authority has no records relating to the permit holder’s former application for

renewal, by such particulars as the permit holder may produce, that the permit holder was a permit holder and had applied for the renewal of the permit.

(4) If a permit holder qualifies for the renewal of a permit under subregulations (2) and (3) but does not lodge a new application for renewal of the permit on or before 30 September 2017, the permit holder's permit is cancelled and such cancellation is effective from 1 October 2017.

(5) Notwithstanding anything contained in these Regulations, on 1 October 2017 the term of any permit issued before 1 October 2017 is extended—

- (a) for road route licences issued in respect of road permits, for a further 15 years expiring on 30 September 2032;
- (b) for road contract licences issued in respect of road permits, for up to 10 years; and
- (c) for all other permits, for a further 10 years expiring on 30 September 2027,

and the Authority must reissue all such permits on or before 31 October 2017 in the prescribed form reflecting the extended terms.

(6) Notwithstanding anything contained in these Regulations, the following transitional provisions apply from 1 January 2018—

- (a) a priority application must be considered for taxi permits available in a transport zone as identified under regulation 5B(1) and if a taxi permit remains after all priority applications have been considered, such taxi permit may be advertised in accordance with regulation 5B(3);
- (b) if the committee finds that an applicant that submitted a priority application does not meet the eligibility criteria provided in regulation 5E(2), the committee must direct the applicant to the Authority and the Authority must reimburse the application fee to the applicant provided the applicant proves, by submitting a receipt, that the applicant had previously submitted the priority application;
- (c) a person who claims to have lodged a priority application may be allowed to resubmit an application and the newly submitted application may be deemed to be a priority application if the person proves, by submitting a receipt or by way of statutory declaration, that the person had previously submitted a priority application;
- (d) a rural service licence issued for a vehicle that is less than one tonne is deemed to be a minibus permit and a rural service licence issued for a vehicle that is more than one tonne is deemed to be a road permit in respect of a carrier licence; and
- (e) any permit held by a person that is not a resident is cancelled and such cancellation is effective from 1 February 2018, unless the permit is

otherwise sold to a resident and the transfer is notified to the Authority on or before 31 January 2018.”.

Regulation 24 amended

12. The Principal Regulations are amended by deleting regulation 24 and substituting the following—

“Omnibus and carrier charge

24.—(1) The Authority may prescribe—

- (a) for an omnibus, the maximum fare applicable in respect of passengers and the maximum freight charge applicable in respect of luggage; and
- (b) for a carrier, the maximum fare applicable in respect of passengers and the maximum freight charge applicable in respect of goods.

(2) The permit holder in respect of an omnibus or carrier must charge the person to whom the service is provided the fare or freight charge prescribed in subregulation (1) or an amount less than the prescribed fare or freight charge.

(3) The permit holder in respect of an omnibus or carrier must cause the fare or freight charge prescribed in subregulation (1), or an amount charged that is less than the fare or freight charge prescribed in subregulation (1), to be displayed in a conspicuous position in the omnibus or carrier.

(4) The charge for the use of a carrier may, subject to conditions on the permit, be for the carrier as a whole or for an individual journey.”.

Made this 4th day of August 2017.

P. K. BALA
Minister for Infrastructure and Transport