

BILL NO. 42 OF 2020

A BILL

FOR AN ACT TO AMEND THE ENVIRONMENT MANAGEMENT ACT 2005

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Environment Management (Amendment) Act 2020.

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

(3) In this Act, the Environment Management Act 2005 is referred to as the “Principal Act”.

Section 45B inserted

2. The Principal Act is amended after section 45A by inserting the following new section—

“Offence of manufacturing, selling, supplying or distributing polystyrene products

45B.—(1) In this section, “polystyrene product” means any product which comprises, in whole or part, polystyrene.

(2) A person who manufactures a polystyrene product commits an offence and is liable upon conviction to a fine not exceeding \$500,000 or to a term of imprisonment not exceeding 7 years or both.

(3) A person who—

- (a) sells, supplies or distributes a polystyrene product to another person;
or
- (b) makes a polystyrene product available to a customer for carrying goods purchased, or to be purchased, from a retailer,

commits an offence and is liable upon conviction to a fine not exceeding \$150,000 or to a term of imprisonment not exceeding 2 years or both.

(4) For the purposes of this section, any act done or omitted by an individual—

- (a) as an employee must be treated as done or omitted by that individual's employer provided that the employee was acting within the course of his or her employment; or
- (b) as an agent must be treated as done or omitted by that individual's principal provided that the agent was acting with the actual or ostensible authority of the terms of his or her agency,

whether or not it was done with the knowledge or approval of the employer or principal.

(5) Notwithstanding anything contained in this section—

- (a) a grace period on and from 1 January 2021 to 31 July 2021 is provided for the offences in this section to allow manufacturers, retailers, suppliers, distributors and users of polystyrene products to exhaust their current stock; and
- (b) the Minister may by regulations exempt a polystyrene product from the application of this section if—
 - (i) he or she considers the product necessary for use by local industries; and
 - (ii) the Minister is satisfied that the use of the product will not have an adverse impact on the environment.”.

December 2020

ENVIRONMENT MANAGEMENT (AMENDMENT) BILL 2020

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 Management Act 2005 (**‘Act’**) sets out the framework for Fiji’s environmental law. In 2019, the Act was amended to ban certain types of plastic bags in order to reduce the harmful effects of plastic bags on the environment, particularly the ocean.
- 1.2 The Environment Management (Amendment) Bill 2020 (**‘Bill’**) seeks to amend the Act to ban the use of polystyrene products, which as a distinct form of plastic is also harmful to the environment.

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 January 2021.
- 2.2 Clause 2 of the Bill amends the Act to insert a new section 45B after section 45A. The new section prohibits the manufacture, sale, supply, distribution or use of polystyrene products. However, a grace period from 1 January 2021 to 31 July 2021 is set out to allow businesses most affected by the polystyrene ban to exhaust their current stock.

3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General