

ACT NO. 30 OF 2021

I assent.

J. K. KONROTE
President

[30 July 2021]

AN ACT**TO AMEND THE FAIR REPORTING OF CREDIT ACT 2016**

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Fair Reporting of Credit (Budget Amendment) Act 2021.

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

(3) In this Act, the Fair Reporting of Credit Act 2016 is referred to as the “Principal Act”.

Section 2 amended

2. Section 2 of the Principal Act is amended by—

(a) deleting the definition of “credit information” and substituting the following—

““credit information” means—

(a) information on a person including positive information and negative information, in electronic or any other form submitted by a credit information provider and maintained, processed and reported on by a credit reporting agency; or

- (b) information on a customer of a utility provider including positive information and negative information, in electronic or any other form submitted by a credit information provider and maintained, processed and reported on by a credit reporting agency;”;
- (b) in the definition of “person”, deleting “and”;
- (c) in the definition of “prescribed”, deleting “.” and substituting “; and”; and
- (d) after the definition of “prescribed”, inserting the following new definition—
 - ““utility provider” means—
 - (a) Energy Fiji Limited;
 - (b) Water Authority of Fiji; or
 - (c) any other body corporate that provides a utility service and is approved by the Minister.”.

Section 4 amended

3. Section 4 of the Principal Act is amended by deleting subsection (2) and substituting the following—

“(2) A person who contravenes subsection (1) is liable to a fine as may be imposed by the Bank under section 18A(3).”.

Section 8 amended

4. Section 8 of the Principal Act is amended by deleting subsection (2) and substituting the following—

“(2) A person who contravenes subsection (1) is liable to a fine as may be imposed by the Bank under section 18A(3).”.

Section 13 amended

5. Section 13 of the Principal Act is amended by—

- (a) renumbering the provision as section 13(1); and
- (b) after subsection (1), inserting the following new subsections—
 - “(2) A credit reporting agency must retain records of credit information—
 - (a) in the case of positive information, for 2 years after the credit has been repaid; and
 - (b) in the case of negative information, for 2 years after the credit has been regularised or arrears paid.
- (3) Where the credit has not been regularised or arrears paid, the information must remain registered in the database of the credit reporting agency.

(4) Where the information has been expunged from the database of the credit reporting agency, the information must be retained for 7 years after being expunged and must only be made available to the Bank.”.

Section 15 amended

6. Section 15 of the Principal Act is amended by deleting subsection (2) and substituting the following—

“(2) A credit reporting agency that contravenes subsection (1) is liable to a fine as may be imposed by the Bank under section 18A(3).”.

Part 5 amended

7. Part 5 of the Principal Act is amended by—

(a) in the heading, deleting “OFFENCES” and substituting “ENFORCEMENT”;

(b) in section 16—

(i) in the heading, deleting “Offences relating to disclosure” and substituting “Disclosure”; and

(ii) deleting “commits an offence and is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years, or to both” and substituting “is liable to a fine as may be imposed by the Bank under section 18A(3)”;

(c) in section 17—

(i) in the heading, deleting “Offence of providing” and substituting “Provision of”; and

(ii) in subsection (1), deleting “commits an offence and is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years, or to both” and substituting “is liable to a fine as may be imposed by the Bank under section 18A(3)”;

(d) in section 18—

(i) in the heading, deleting “Other offences” and substituting “Non-compliance with other requirements”;

(ii) deleting “commits an offence and is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years, or to both” wherever it appears and substituting “is liable to a fine as may be imposed by the Bank under section 18A(3)”;

(iii) deleting subsection (5) and substituting the following—

“(5) The Bank must make the final determination of the extent of liability of each director, executive officer or employee of the body corporate that contravenes any provision under this section.”; and

(e) after section 18, inserting the following new section—

“Administrative action

18A.—(1) The administrative action provided for in this section may be determined by the Bank.

(2) The administrative action must be based on the gravity of the violation, the effect of the violation on the credit reporting business, the stage at which the violation is detected, and the appropriate measure to remedy or terminate the violation.

(3) The Bank may take one or more of the following administrative actions, with respect to a credit reporting agency, credit information provider or credit report recipient, if the Bank determines the credit reporting agency, credit information provider or credit report recipient has committed any violation under this Act or any measure the Bank issued pursuant to this Act—

- (a) issue written warnings;
- (b) issue written directives to perform any such acts as are necessary to comply with the provisions of this Act or any measure issued by the Bank pursuant to this Act;
- (c) impose fines for each violation committed, in amounts as may be determined by the Bank to be appropriate, including an initial fine not exceeding \$250,000 and a further fine not exceeding 5% of the initial fine for each day the violation continues; and
- (d) institute civil proceedings for any matter under this Act.”.

Section 19 amended

8. Section 19 of the Principal Act is amended by—

- (a) in subsection (4), deleting “bank” and substituting “Bank”; and
- (b) in subsection (8)—
 - (i) deleting “(4),”; and
 - (ii) deleting “commits an offence and is liable upon conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years, or to both” and substituting “is liable to a fine as may be imposed by the Bank under section 18A(3).”.

Section 22 amended

9. Section 22 of the Principal Act is amended by—

(a) after subsection (1), inserting the following new subsection—

“(1A) Every utility provider must register as a credit information provider and credit report recipient with the Bank.”; and

- (b) in subsection (4), deleting “commits an offence and is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years, or to both” and substituting “is liable to a fine as may be imposed by the Bank under section 18A(3).”.

Section 22A inserted

10. The Principal Act is amended after section 22 by inserting the following new section—

“Exclusion from liability

22A. The Bank, its directors, officers and employees are not liable in any manner whatsoever for anything done or omitted to be done in good faith in the discharge or purported discharge of the functions and duties of the Bank under this Act.”.

Passed by the Parliament of the Republic of Fiji this 30th day of July 2021.