

[LEGAL NOTICE NO. 63]

ELECTRONIC FARE TICKETING ACT 2014

Electronic Fare Ticketing (Omnibus) Regulations 2017

IN exercise of the powers conferred upon me by section 33 of the Electronic Fare Ticketing Act 2014, I hereby make these Regulations—

PART 1—PRELIMINARY

Short title and commencement

1.—(1) These Regulations may be cited as the Electronic Fare Ticketing (Omnibus) Regulations 2017.

(2) These Regulations are deemed to have come into force on 1 August 2017.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Act” means the Electronic Fare Ticketing Act 2014;

“concession buscard” means a non-transferable buscard issued to a student or a subsidised senior citizen or person with disability;

“Fixed Penalty Notice” means a notice issued under regulation 12;

“Fund” means the ICT Development Trust Fund established under regulation 3(1);

“ICT” means Information and Communication Technologies;

“late payment fee” means 50% of the fixed penalty a person is liable to pay under these Regulations; and

“non-subsidised student” means a student who is not a subsidised student.

PART 2—ICT DEVELOPMENT TRUST FUND

Establishment of the Fund

3.—(1) This regulation establishes the ICT Development Trust Fund.

(2) The Fund consists of—

(a) any e-money not refunded by a solution provider to a person upon the date of expiry of the person’s disposable buscard;

(b) any interest accrued from the money deposited in the Fund;

(c) any money appropriated by Parliament for the application of the Fund; and

(d) such sums of money received for the application of the Fund under any written law or from any other source approved by the Minister.

(3) No part of the Fund may be transferred or assigned to any person other than in accordance with these Regulations.

Application of the Fund

4.—(1) Money from the Fund must be utilised for the development of ICT in Fiji as approved by the Minister.

(2) Notwithstanding subregulation (1), the management and administration costs of the Fund are to be paid from the Fund or if there are insufficient funds, from the annual budget of the Ministry.

(3) No payments may be made from the Fund without the authorisation of the Permanent Secretary.

(4) The expenditure of the Fund must be published by the Ministry and made publicly available.

PART 3—REGULATION OF PAYMENT OF OMNIBUS FARES

Payment of omnibus fare

5.—(1) A person who travels on an omnibus must pay the omnibus fare required to reach his or her destination.

(2) Any person who contravenes subregulation (1) commits an offence and is liable to a fixed penalty of \$50.

(3) Where a person fails to pay the fixed penalty and a late payment fee within the prescribed period, the person is liable upon conviction to a fine not exceeding \$500.

Payment of other person's omnibus fare

6.—(1) Subject to subregulations (2) and (3), a person may—

- (a) use his or her buscard; or
- (b) permit the use of his or her buscard,

to pay the omnibus fare of another person.

(2) The following persons must not use their buscards to pay the omnibus fare of another person—

- (a) a subsidised student;
- (b) a non-subsidised student; and
- (c) a subsidised senior citizen or person with disability.

(3) A person who is not entitled to a concession must not use a concession buscard to pay his or her omnibus fare.

(4) Any person who contravenes subregulation (2) or (3) commits an offence and is liable to a fixed penalty of \$50.

(5) Where a person fails to pay the fixed penalty and a late payment fee within the prescribed period, the person is liable upon conviction to a fine not exceeding \$500.

Omnibus driver's liability

7.—(1) Pursuant to regulation 6(2), an omnibus driver must not accept payment of another person's omnibus fare from the following persons—

- (a) a subsidised student;
- (b) a non-subsidised student; and
- (c) a subsidised senior citizen or person with disability.

(2) An omnibus driver who contravenes subregulation (1) commits an offence and is liable to a fixed penalty of \$50.

(3) Where an omnibus driver fails to pay the fixed penalty and a late payment fee within the prescribed period, the omnibus driver is liable upon conviction to a fine not exceeding \$500.

Inspection of buscard

8.—(1) An authorised officer may request any person, in possession of a buscard, to produce the buscard for inspection.

(2) Where a person has been requested to provide a buscard under subregulation (1), he or she must provide the buscard in his or her possession.

(3) Any person who contravenes subregulation (2) commits an offence and is liable to a fixed penalty of \$50.

(4) Where a person fails to pay the fixed penalty under subregulation (3) and a late payment fee within the prescribed period, the person is liable upon conviction to a penalty not exceeding the maximum penalty prescribed under the Act.

(5) Pursuant to subregulation (1), where a person's omnibus fare has been paid by another person in accordance with regulation 6(1)(a), he or she must provide the authorised officer evidence of payment.

(6) Any person who contravenes subregulation (5) commits an offence and is liable to a fixed penalty of \$50.

(7) Where a person fails to pay the fixed penalty under subregulation (6) and a late payment fee within the prescribed time, the person is liable upon conviction to a fine not exceeding \$500.

Buscard to be surrendered

9.—(1) Pursuant to regulation 8, an authorised officer may direct the holder of a buscard or purported buscard to surrender the buscard if the authorised officer believes, on reasonable grounds, that the buscard may be required as evidence or that its surrender is necessary for the enforcement of the Act or any subsidiary law made under the Act.

(2) The holder of a buscard or a purported buscard must comply with the direction made by an authorised officer under subregulation (1).

(3) Any person who contravenes subregulation (2) commits an offence and is liable to a fixed penalty of \$50.

(4) Where a person fails to pay the fixed penalty and a late payment fee within the prescribed period, the person is liable upon conviction to a penalty not exceeding the maximum penalty prescribed under the Act.

Requirement to submit correct identification details

10.—(1) An authorised officer may direct a person who has committed an offence under the Act or these Regulations to provide a national photo identification document to verify his or her identity, and where a person does not have a national photo identification document, the person's true name and true place of residence.

(2) A person must comply with the directions made by an authorised officer pursuant to subregulation (1).

(3) Any person who contravenes subregulation (2) commits an offence and is liable upon conviction to a fine not exceeding \$500 or imprisonment for a term of one year or both.

Non-subsidised student

11. For the purposes of this Part, a non-subsidised student is eligible to a concession of 50% of the adult omnibus fare.

PART 4—FIXED PENALTY NOTICE

Issuance of Fixed Penalty Notice

12.—(1) An authorised officer may issue a Fixed Penalty Notice to a person who commits a fixed penalty offence under these Regulations.

(2) A Fixed Penalty Notice must be issued and despatched by an authorised officer within 21 days from the date the offence is committed and any Fixed Penalty Notice issued beyond this period is deemed invalid.

(3) Pursuant to subregulation (1), an authorised officer must despatch a Fixed Penalty Notice in respect of the alleged commission of a fixed penalty offence under these Regulations by serving the Fixed Penalty Notice—

- (a) personally upon the person alleged to have committed the offence; or
- (b) at the registered owner of the buscard's physical address last recorded by the solution provider upon a person who resides there, provided the person is not below the age of 18 years.

(4) In these Regulations, service is deemed to be effected if the Fixed Penalty Notice—

- (a) is in the form prescribed in the Schedule; and
- (b) has been despatched to the person in accordance with this regulation.

Fixed penalty

13. A person to whom a Fixed Penalty Notice is issued, is liable to a fixed penalty and must, within 30 days from the date the Fixed Penalty Notice is issued, undertake one of the following actions—

- (a) pay the fixed penalty in a single payment or by instalments; or
- (b) elect to dispute the fixed penalty in court.

Failure to pay fixed penalty

14. If a person to whom a Fixed Penalty Notice is issued does not undertake any of the actions in regulation 13 within the prescribed period, the person is liable to pay a late payment fee in addition to the fixed penalty.

Failure to take action within 44 days

15. If a person to whom a Fixed Penalty Notice is issued does not undertake any of the actions provided in regulation 14 within 44 days from the date the Fixed Penalty Notice is issued, an authorised officer may institute proceedings against the person and seek from the court a sentence providing for the maximum penalties for the offence.

Fixed Penalty Notice complied with

16. Where a person to whom a Fixed Penalty Notice is issued has paid his or her fixed penalty within the prescribed period, all proceedings instituted by the Fixed Penalty Notice are deemed to have been dismissed.

Evidence of acceptance of a Fixed Penalty Notice

17. A certificate signed by an authorised officer stating that the fixed penalty was or was not paid must, unless the contrary is proved, be conclusive evidence of the matters stated in the certificate.

SCHEDULE

FIXED PENALTY NOTICE

**LAND TRANSPORT AUTHORITY
FIXED PENALTY NOTICE
ELECTRONIC FARE TICKETING (OMNIBUS) REGULATIONS 2017
(Regulation 12(4)(a))**

FIXED PENALTY NOTICE NO.:

To: _____ (Name)
of _____ (Address)

Statement of Offence:

Particulars of Offence:

Contrary to:

1. This offence carries a maximum penalty of _____. If you do not wish to contest this Notice, you are required to pay a Fixed Penalty of \$_____ to the Land Transport Authority.
2. The payment of the Fixed Penalty is due within 30 days from the date of issue of this Notice and is payable at any Land Transport Authority Office nearest to you. All liability in respect of the offence will be discharged and no further action will be taken against you with respect to this particular offence.
3. If you wish to contest this Notice for any reason, you may elect to dispute this Notice in court.
4. If you fail to pay the Fixed Penalty or dispute this Notice in court within 30 days from the date of issue of this Notice, you are liable to a late payment fee equivalent to 50% of the Fixed Penalty, in addition to the Fixed Penalty.
5. You may pay your Fixed Penalty and any late payment fee in a single payment or in instalments.
6. If you do not pay your Fixed Penalty and late payment fee in full or elect to dispute this Notice in court within 44 days of the date this Notice is issued to you, an authorised officer may institute proceedings against you and seek the maximum penalty from the court.

(Name of Authorised Officer)

(Signature of Authorised Officer)

(Date)

AFFIDAVIT OF SERVICE

(To be completed in all cases)

I, _____, the Authorised Officer whose signature appears on the Fixed Penalty Notice above, make oath and say that, on the ____ day of _____, 20__ at _____ I did serve upon the accused person specified therein a copy of the Fixed Penalty Notice.

Sworn by the above named Authorised Officer this ____ day of _____ 20__.

Before: _____

Justice of the Peace or Commissioner for Oaths.

Made this 2nd day of August 2017.

A. SAYED-KHAIYUM
Attorney-General and Minister for Communications