



## REPUBLIC OF VANUATU

### AGRICULTURE ACT NO. 17 OF 2018

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# REPUBLIC OF VANUATU

**Assent:** 06/07/2018  
**Commencement:** 28/08/2018

## AGRICULTURE ACT NO. 17 OF 2018

An Act to provide for the development and management of the agriculture sector and for related matters.

Be it enacted by the President and Parliament as follows-

### PART 1 PRELIMINARY MATTERS

#### 1 Application of this Act

- (1) This Act applies to the agriculture sector and all agricultural activities in Vanuatu.
- (2) If a provision of this Act conflicts with a provision of any other Act other than the Constitution, the provisions of this Act prevail.

#### 2 Interpretation

In this Act, unless a contrary intention appears:

**agricultural activity** means the use of land for cropping purposes, including farming, and the necessary uses for packing, treating or storing the produce of such activity;

**agriculture business** means the carrying on of an agricultural activity in any of the agricultural commodities specified in the Schedule;

**Department** means the Department of Agriculture and Rural Development;

**Director** means the Director of the Department of Agriculture and Rural Development;

**foreign investor** means:

- (a) a natural person who is not a citizen of Vanuatu; or
- (b) a body corporate:
  - (i) that is not wholly controlled by persons who are citizens of Vanuatu; or
  - (ii) that has any of its shares (voting or otherwise) beneficially owned or controlled by persons who are not citizens of Vanuatu; or
- (c) any entity other than a natural person or a body corporate, where the control of, or the benefit to be derived from the entity, will vest wholly in persons who are not citizens of Vanuatu or a body corporate under paragraph (b),

that operates or intends to operate an investment activity in Vanuatu;

**Minister** means the Minister responsible for Agriculture and Rural Development;

**Policy** means the Vanuatu Agriculture Sector Policy referred to in section 7.

## **PART 2 ADMINISTRATION AND FUNCTIONS OF THE DEPARTMENT**

### **3 Director of the Department**

- (1) The Director is responsible for the efficient administration of this Act.
- (2) The Director is to advise the Minister and the Director General on matters related to the Department and this Act.

### **4 General functions of the Department**

- (1) The general function of the Department is to regulate the Agriculture sector according to this Act and any other Act under which the Department is responsible.
- (2) Without limiting the generality of subsection (1), the Department has the following general functions:
  - (a) to coordinate the implementation of the Policy; and
  - (b) to advise the Minister on all matters relating to the Policy, including the review of the Policy; and
  - (c) to assist develop appropriate agriculture training syllabus and modules based on the needs of the Agriculture Sector; and
  - (d) to conduct formal and informal trainings in all relevant aspects of agriculture development; and
  - (e) to promote field school programs to facilitate hands-on training in the agriculture sector; and
  - (f) to facilitate joint-venture arrangements with landowners; and
  - (g) to carry out research, surveys and studies relating to the implementation of the Policy; and
  - (h) to encourage credit providers to recognize movable, as well as non-movable assets, as collaterals for obtaining agriculture credit; and

- (i) to carry out such other functions as may be conferred on the Department under this Act or any other Act.

## **5 Functions of the Department relating to environment protection and sustainable farming**

The Department has the following functions in relation to environment protection and sustainable farming:

- (a) to promote the establishment of appropriate centres for planting materials and inputs in all major islands of Vanuatu; and
- (b) to encourage environmental protection and sustainable farming methods in all agricultural practices; and
- (c) to promote environmental considerations such as buffer zones and wild life corridors in all agricultural practices; and
- (d) to promote the protection of endemic species to be considered in all agricultural practices; and
- (e) to promote the practice of organic farming; and
- (f) to carry out such other functions as may be conferred on the Department under this Act or any other Act.

## **6 Powers of the Department**

The Department has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

## **7 Vanuatu Agriculture Sector Policy**

- (1) The Department must, within 5 months from the commencement of this Act, prepare the Vanuatu Agriculture Sector Policy to provide for the development and management of the agriculture sector.
- (2) The Minister must table the Policy at a Council of Ministers meeting for its approval.
- (3) The Department must review the Policy every 5 years from the date of its approval by the Council of Ministers.

**8 Appointment of authorised officers**

(1) The Director may appoint:

- (a) a suitably qualified and trained person who is not an officer of the Department; or
- (b) any of the officer of the Department; or
- (c) any of the officer of another department; or
- (d) any of the officer of a Provincial Government Council,

to be an authorised officer to perform or exercise any functions or powers that may be performed or exercised for the purposes of this Act, for a period of time as determined by the Director.

(2) The authorised officer must ensure that:

- (a) the Policy is being implemented; and
- (b) the permit holders are complying with the terms and conditions of their permit.

(3) The appointment of an authorised officer is to be published by notice in the Gazette.

(4) The Director is to provide to each authorised officer, an identity card that will provide evidence of the identity of that person and of the appointment of that person as an authorised officer under this Act.

(5) An authorised officer who holds an identity card issued under this section must, on the termination of his or her appointment, surrender the identity card to the Director.

## **PART 3 AGRICULTURE BUSINESS PERMIT**

### **9 Application for a permit**

- (1) A foreign investor who proposes to carry on a business in an agricultural activity in any of the commodities specified under the Schedule must apply to the Director for a permit or renewal of a permit.
- (2) The application must:
  - (a) be in writing and in the prescribed form; and
  - (b) be accompanied with the prescribed fee.

### **10 Assessment of permit application**

- (1) Upon receiving an application, the Director may:
  - (a) carry out investigations and consultations on the application if the Director considers necessary; or
  - (b) request additional information from the applicant on the application and may specify the period in which the information must be provided; or
  - (c) consult other parties that are part of the industry.
- (2) To avoid doubt, a permit must not be granted to a foreign investor for a commodity that is a reserved activity specified in Part2 of the Schedule of the Vanuatu Foreign Investment Promotion Act [CAP 248].

### **11 Grant of permit**

- (1) A permit granted by the Director:
  - (a) must be in the prescribed form; and
  - (b) may contain such conditions as the Director considers necessary.
- (2) A permit expires on the 31<sup>st</sup> day of December of the year of issue and may be renewed.

- (3) A permit may be renewed for 1 year.

## **PART 4 FEES**

### **12 Definitions**

In this Part:

**prescribed period** means the period of 3 years from the date of the grant of a permit.

### **13 Exemption from requirement to pay permit fees**

- (1) A foreign investor is exempted, for a prescribed period, from any requirement to pay the permit fee imposed under this Act, if the Minister is satisfied, on the advice of the Director, that the agriculture business of the foreign investor is a new business and the capital investments exceeds VT50 million.
- (2) If the Minister determines, after granting the permit to the foreign investor, that the capital investment is less than VT 50 million within the prescribed period:
  - (a) the exemption under subsection (1) must cease; and
  - (b) the person is liable to pay a fee for each month that has elapsed during the period of the exemption, at the rate applied during that month.

### **14 Exemption maybe extended for up to 10 years**

- (1) A permit holder may, after the expiry of the prescribed period, apply to the Minister for exemption of the payment of the permit fee for each year within a period of 10 years.
- (2) The application must:
  - (a) be in the prescribed form; and
  - (b) be accompanied with supporting evidences of performance; and
  - (c) be accompanied with the prescribed fee.

- (3) The Minister may grant an exemption only on the advice of the Director and if the Minister is satisfied that the permit holder has met the requirements under subsection 13(1) to be eligible for an exemption under this provision.

**15 Annual report by permit holder**

A permit holder must provide an annual report to the Director within 3 months before the end of each year providing details on the following:

- (a) the status of the development of the agriculture business the permit holder is engaged in; and
- (b) any other information as may be prescribed by the Regulations.

**PART 5 TAX ON PRIME AGRICULTURE LAND  
SUBDIVIDED FOR OTHER USE**

**16 Imposition of a tax on prime agriculture land subdivided for other uses**

- (1) A lessee of an agricultural lease must pay a tax of 25% of the market value of land, without improvements, for every prime agricultural land used or subdivided for other uses other than agricultural use.
- (2) The tax is payable to the Government:
  - (a) within 30 days of the decision or approval by the Director to subdivide the land; and
  - (b) by March each year for the succeeding years.
- (3) For the purpose of this section, **prime agriculture land** means land that is best for planting food types that may produce high yields of products.

## **PART 6 INTERACTIONS WITH OTHER GOVERNMENT BODIES AND PRIVATE SECTOR**

### **17 Consultation with other Government bodies and the private sector**

The Director, in ensuring the implementation and review of the Policy, is to carry out consultations with the relevant Government bodies and the private sector by:

- (a) conducting workshops, conferences and meetings with the public and private sector organisations and their representatives; or
- (b) conducting surveys and forming focus groups to gather and analyse opinions and to report on the results of the survey; or
- (c) publishing papers, studies, pamphlets and other materials, in paper or electronic form; or
- (d) the use of public media such as radio and newspaper.

### **18 Coordination of Vanuatu Agriculture Sector Policy**

- (1) The Director must ensure that the Policy or related programmes do not conflict with or duplicate the policies or programmes of other agencies in Vanuatu, and in particular such policies or programmes directed at the agriculture sector.
- (2) Bodies (other than agencies as defined under this section) must ensure that their policies and related programmes do not conflict with or duplicate the policies and related programmes of the Vanuatu Agriculture Sector Policy.
- (3) For the purposes of this section:

**agency** means:

- (a) a Ministry; or
- (b) an office of a Government Minister; or
- (c) an office or body established by or under the Constitution; or
- (d) an office or body established by or under an Act of Parliament; or

- (e) a prescribed agency.

## **PART 7 MISCELLANEOUS PROVISIONS**

### **19 Inspection of agricultural investments**

For the purposes of implementing, inspecting and ensuring compliance with the provisions of this Act and its Regulations, the Director or an authorised officer may do all or any of the following:

- (a) enter and inspect any land or plantation;
- (b) enter any vessel, property or building (other than a private dwelling), and inspect any plant, machinery or equipment, and any records of any description on that vessel or property or in that building;
- (c) inspect any crop or other agricultural products, wherever it may be located;
- (d) require any person to execute a statutory declaration relating to matters within that person's knowledge and control.

### **20 Immunity**

- (1) A civil or criminal liability action is not to be taken against the Director, or an authorised officer in respect of anything done or omitted to be done by the Director or an authorised officer, in good faith in the execution or purported execution of his or her functions or powers under this Act.
- (2) The Director or an authorised officer is not exempted from liability under subsection (1) for any act or omission that constitutes bad faith or gross negligence on his or her part.

### **21 Export of agriculture products**

The Minister may, on the advice of the Director, make Regulations:

- (a) to approve the export of different agricultural products subject to standards and conditions as may be specified in the Regulations; or
- (b) to prohibit or restrict the export of any class or type of agricultural products.

**22 Annual Report by Director**

- (1) The Director must provide an annual report on the implementation of the Policy to the Minister within 4 months after the end of each year, on the following matters:
  - (a) the status of the growth of the agriculture sector; and
  - (b) the implementation of the Policy; and
  - (c) such other information as may be prescribed by Regulations.
- (2) The Minister must table the annual report at a meeting of the Council of Ministers.

**23 Research**

- (1) If the Minister considers that there is a need to carry out a research:
  - (a) into a commodity; or
  - (b) into an aspect of a commodity,

Set out in the Schedule or as prescribed, the Minister may, on the advice of the Director, grant a permit to any applicant for research into such commodity or any aspect of such commodity to determine its properties and its use for medical, human consumption or for other purposes as may be prescribed.

- (2) The permit granted under subsection (1) is subject to such conditions and fees as may be prescribed.

**24 Offences**

- (1) A person who without reasonable cause, makes, or aids and abets the making of any false statement in any application under section 11 commits an offence and is liable on conviction to a fine not exceeding VT500,000, or imprisonment for a term not exceeding 6 months, or to both.
- (2) A person who carries on an agricultural business without a valid business permit granted under section 11 commits an offence and is liable on conviction:

- (a) in the case of an individual -to a fine not exceeding VT500,000, or imprisonment for a term not exceeding 1 year, or both; or
- (b) in the case of a body corporate -to a fine not exceeding VT1,000,000.

**24A Variation of Schedule**

The Minister may by Order, on the advice of the Director, vary or remove, a prescribed commodity that is listed in the Schedule.

**25 Regulations**

- (1) The Minister, on the advice of the Director, may make Regulations not inconsistent with this Act for the better carry out or giving effect to the provisions of this Act.
- (2) Without limiting subsection (1), the Minister, on the advice of the Director, may make Regulations for all or any of the following:
  - (a) prescribe procedures and forms to be complied with when applying for a permit to carry out the purpose of this Act;
  - (b) prescribe forms to be complied with for providing information to the Director;
  - (c) prescribe the form for a permit or notice made under this Act;
  - (d) prescribe the fees and charges to be paid to the Department for work done or services provided by the Department; and
  - (e) prescribe the standards to be complied with by persons engaged in any agricultural activity specified in the Schedule;
  - (f) prescribe any other agricultural commodity for the purposes of this Act.

**26 Transitional Provision**

- (1) A person who is operating under an agriculture permit before the commencement of this Act must apply for a permit to the Director under Part 3 within 6 months from the commencement of this Act.
  
- (2) To avoid doubt, a person operating under an agriculture permit may continue to operate without a permit issued under Part3 for a period of 6 months from the commencement of this Act.

**27 Commencement**

This Act commences on the day on which it is published in the Gazette.

## **SCHEDULE**

The followings are agricultural commodities:

- 1 Sweet potato
- 2 Rice
- 3 Peanut
- 4 Corn
- 5 Vegetables
- 6 Island Cabbage
- 7 Yam
- 8 Pawpaw
- 9 Taro
- 10 Cassava
- 11 Banana
- 12 Cocoa
- 13 Coffee
- 14 Kava
- 15 Coconut
- 16 Pepper
- 17 Vanilla
- 18 Tahitian Lime

SCHEDULE

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19 Noni