



REPUBLIC OF VANUATU

EXPLOSIVES ACT NO. 13 OF 2023

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REPUBLIC OF VANUATU

Assent: 09/06/2023
Commencement: 03/07/2023

EXPLOSIVES ACT NO. 13 OF 2023

An Act to regulate the importation, storage, sale and use of explosives in Vanuatu, and for related matters.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY MATTERS

1 Interpretation

In this Act, unless the contrary intention appears:

Committee means the Explosive Advisory Committee established under section 2;

customs controlled area means a customs controlled area as defined in the Customs Act No. 7 of 2013;

Director General means the Director General of the Ministry of Internal Affairs;

enforcement officer means an enforcement officer appointed under section 43;

explosive means:

- (a) gunpowder; or
- (b) blasting powder; or
- (c) dynamite; or
- (d) nitro glycerine; or
- (e) gun cotton; or
- (f) fulminate of mercury; or

(g) any other substance used with a view to produce an effect by explosions,

and includes detonators, fuses and any other accessory composed of a detonating or inflammable substance used to produce explosions, and fireworks;

import permit means an import permit granted under section 11;

magazine permit means a magazine permit granted under section 25;

Minister means the Minister responsible for explosives;

sell or supply permit means a sell or supply permit granted under section 18.

PART 2 EXPLOSIVE ADVISORY COMMITTEE

2 Establishment of the Explosive Advisory Committee

The Explosive Advisory Committee is established.

3 Composition of the Committee

The Committee consists of the following persons:

- (a) the Director General; and
- (b) the Director of the Department of Customs and Inland Revenue; and
- (c) the Director of the Department of Civil Aviation Authority; and
- (d) a senior police officer nominated by the Police Commissioner.

4 Functions of the Committee

The Committee has the following functions:

- (a) to consider applications for permits under this Act; and
- (b) to make recommendations to the Minister for permits to be granted under this Act; and
- (c) to make recommendations to the Minister for the suspension or cancellation of a permit under this Act; and
- (d) to advise the Government on specific matters relating to explosives; and
- (e) to review any proposed Regulations on explosives and to make recommendations to the Minister on such proposed Regulations; and
- (f) to request the permit holder to prepare and give reports on explosives and activities under the permit; and
- (g) to review the reports of the permit holder; and
- (h) such other functions as may be conferred on it under this Act or any other Act.

5 Powers of the Committee

The Committee has the power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions under this Act.

6 Chairperson and Deputy Chairperson of the Committee

- (1) The Director General is the Chairperson of the Committee.
- (2) The members of the Committee are to elect amongst themselves a Deputy Chairperson for a term of 2 years and he or she may be re-elected.

7 Meetings of the Committee

- (1) The Committee is to meet at least 3 times each year in its ordinary meetings and may hold such other meetings as are necessary for the proper performance of its functions under this Act.
- (2) The Chairperson of the Committee is to preside at all meetings of the Committee and in his or her absence, the Deputy Chairperson is to preside at these meetings.
- (3) The Ministry of Internal Affairs is the secretariat of the Committee.
- (4) At a meeting of the Committee, a quorum consists of:
 - (a) the Chairperson or the Deputy Chairperson if the Chairperson is for any reason unable to attend or preside at the meeting; and
 - (b) 2 members present at that meeting.
- (5) The Committee may meet despite any vacancies in its membership so long as a quorum is present.
- (6) A member present at a meeting has 1 vote and questions arising at a meeting are to be decided by a majority of votes.
- (7) If the voting at a meeting is equal, the Chairperson or the Deputy Chairperson (if he or she is presiding over the meeting) has a casting vote.
- (8) Subject to this Act, the Committee is to determine and regulate its own procedures.

8 Sitting allowance

A member of the Committee who attend a meeting of the Committee, including the Chairperson and Deputy Chairperson, is entitled to a sitting allowance of VT 10,000 for each day, or part of a day, on which the Committee meets.

PART 3 IMPORT PERMITS

9 Application for import permit

- (1) A person who intends to import into Vanuatu explosives must apply to the Minister for an import permit.
- (2) The application must:
 - (a) be in the prescribed form; and
 - (b) be accompanied by the prescribed application fee.
- (3) The Minister must, within 7 working days after receiving an application, provide the application to the Committee.

10 Consideration of applications by the Committee

- (1) The Committee must, within 7 working days after receiving an application under subsection 9(3), consider the application.
- (2) In considering an application, the Committee must determine whether the application satisfies the requirements under subsection 9(2).
- (3) The Committee may, after receiving the application, request the applicant in writing to provide additional information within a reasonable time specified by the Committee.
- (4) If the applicant fails to comply with a request made under subsection (3), the application is taken to be withdrawn.
- (5) After considering an application under subsection (2) or (3), the Committee must in writing recommend to the Minister the names of the applicants who are to be granted import permits.

11 Granting of import permit

- (1) The Minister must, upon receiving a recommendation from the Committee under subsection 10(5), grant an import permit with conditions.
- (2) An import permit is valid for a period not exceeding 1 year.

- (3) An import permit is invalid if it is granted by the Minister in contravention of subsection (1).

12 Conditions of import permit

An import permit is subject to:

- (a) the provisions of this Act and any other relevant Acts; and
- (b) any other conditions which may be prescribed, by Order, by the Minister, on the recommendation of the Committee.

13 Suspension of import permit

(1) If the Committee is satisfied that:

- (a) there is a breach of a condition of an import permit; or
- (b) there is a breach of a provision of this Act or its Regulations; or
- (c) the holder of the import permit is importing explosives in contravention of a provision of this Act or its Regulations,

the Committee must advise the Minister in writing to serve a notice of non-compliance on the import permit holder as required under subsection (3).

- (2) In addition to subsection (1), if the Committee is satisfied that there is a serious breach of the import permit, the Committee must advise the Minister in writing to suspend the import permit and the Minister may suspend the permit by written notice to the import permit holder for the period specified in the notice.
- (3) A notice of non-compliance must specify the condition of the import permit, or the provision of this Act or its Regulations, that was breached.
- (4) If the import permit holder fails to rectify the breach of the import permit specified in the notice of non-compliance, the Minister must, on the written advice of the Committee:
- (a) suspend the import permit; and
- (b) serve a notice of suspension on the import permit holder; and

- (c) allow the import permit holder to provide reasons within a reasonable time specified by the Minister in the notice of suspension why the import permit should not be cancelled.
- (5) The import permit holder must not import explosives until the Committee in writing advises the Minister and the import permit holder that a suspension under subsection (2) or (4) is lifted.

14 Cancellation of import permit

- (1) If the import permit holder fails to comply with paragraph 13(4)(c), the Minister must, on the written advice of the Committee, cancel the import permit and the Minister must serve a notice of cancellation on the import permit holder.
- (2) If:
 - (a) an import permit is suspended under subsection 13(2); and
 - (b) the period of suspension expires; and
 - (c) the serious breach of the import permit has not been remedied to the satisfaction of the Committee,

the Minister must, on the written advice of the Committee, cancel the import permit and the Minister must serve a notice of cancellation on the import permit holder.

15 Application to import explosives after 1 year of cancellation of an import permit

A person whose import permit is cancelled under subsection 14(1) or (2) may apply for a permit to import explosives after 1 year from the date of cancellation of the permit.

PART 4 SELL OR SUPPLY PERMITS

16 Application for sell or supply permit

- (1) A person who intends to sell or supply explosives must apply to the Minister for a sell or supply permit.
- (2) The application must:
 - (a) be in the prescribed form; and
 - (b) be accompanied by the prescribed application fee.
- (3) The Minister must, within 7 working days after receiving an application, provide the application to the Committee.

17 Consideration of applications by the Committee

- (1) The Committee must, within 7 working days after receiving an application under subsection 16(3), consider the application.
- (2) In considering an application, the Committee must determine whether the application satisfies the requirements under subsection 16(2).
- (3) The Committee may, after receiving the application, request the applicant in writing to provide additional information within a reasonable time specified by the Committee.
- (4) If the applicant fails to comply with the request made under subsection (3), the application is taken to be withdrawn.
- (5) After considering an application under subsection (2) or (3), the Committee must in writing recommend to the Minister the names of the applicants who are to be granted sell or supply permits.

18 Granting of sell or supply permit

- (1) The Minister must, upon receiving a recommendation from the Committee under subsection 17(5), grant a sell or supply permit with conditions.
- (2) A sell or supply permit is valid for a period not exceeding 1 year.

- (3) A sell or supply permit is invalid if it is granted by the Minister in contravention of subsection (1).

19 Conditions of sell or supply permit

- (1) A sell or supply permit is subject to:
- (a) the maximum quantity of explosives intended to be sold or supplied to a person; and
 - (b) the provisions of this Act and any other relevant Act; and
 - (c) any other conditions which may be prescribed, by Order, by the Minister, on the recommendation of the Committee.
- (2) To avoid doubt, the maximum quantity of explosives under paragraph (1)(a) does not apply to a permit holder possessing the explosives in accordance with a magazine permit.

20 Suspension of sell or supply permit

- (1) If the Committee is satisfied that:
- (a) there is a breach of a condition of a sell or supply permit; or
 - (b) there is a breach of a provision of this Act or its Regulations; or
 - (c) the sell or supply permit holder is selling or supplying explosives in contravention of a provision of this Act or its Regulations,

the Committee must advise the Minister in writing to serve a notice of non-compliance on the sell or supply permit holder as required under subsection (3).

- (2) In addition to subsection (1), if the Committee is satisfied that there is a serious breach of the sell or supply permit, the Committee must advise the Minister in writing to suspend the sell or supply permit and the Minister may suspend the permit by written notice to the sell or supply holder for the period specified in the notice.
- (3) A notice of non-compliance must specify the condition of the sell or supply permit, or the provision of this Act or its Regulations, that was breached.

- (4) If the sell or supply permit holder fails to rectify the breach of the sell or supply permit specified in the notice of non-compliance, the Minister must on the advice of the Committee:
- (a) suspend the sell or supply permit; and
 - (b) serve a notice of suspension on the sell or supply permit holder; and
 - (c) allow the sell or supply permit holder to provide reasons within a reasonable time specified by the Minister in the notice of suspension why the permit should not be cancelled.
- (5) The sell or supply permit holder must not sell or supply explosives until the Committee in writing advises the Minister and the sell or supply permit holder that the suspension under subsection (2) or (4) is lifted.

21 Cancellation of sell and supply permit

- (1) If the sell or supply permit holder fails to comply with paragraph 20(4)(c), the Minister must, on the written advice of the Committee, cancel the sell or supply permit and the Minister must serve a notice of cancellation on the sell or supply permit holder.
- (2) If:
- (a) a sell or supply permit is suspended under subsection 20(2); and
 - (b) the period of suspension expires; and
 - (c) the serious breach of the permit has not been remedied to the satisfaction of the Committee,

the Minister must, on the written advice of the Committee, cancel the sell or supply permit and the Minister must serve a notice of cancellation on the permit holder.

22 Application to sell or supply explosives after 1 year of cancellation of a sell or supply permit

A person whose sell or supply permit is cancelled under subsection 21(1) or (2) may apply for a permit to sell or supply explosives after 1 year from the date of cancellation of the permit.

PART 5 MAGAZINE PERMITS

23 Application for magazine permit

- (1) A person who intends to construct a magazine for the storage of explosives must apply to the Minister for a magazine permit.
- (2) The application must:
 - (a) be in the prescribed form; and
 - (b) be accompanied by the prescribed application fee.
- (3) The Minister must, within 7 working days after receiving an application, provide the application to the Committee.

24 Consideration of applications by the Committee

- (1) The Committee must, within 7 working days after receiving an application under subsection 23(3), consider the application.
- (2) In considering an application, the Committee must determine whether the application satisfies the requirements under subsection 23(2).
- (3) The Committee may, after receiving the application, request the applicant in writing to provide additional information within a reasonable time specified by the Committee.
- (4) If the applicant fails to comply with a request made under subsection (3), the application is taken to be withdrawn.
- (5) After considering an application under subsection (2) or (3), the Committee must in writing recommend to the Minister the names of the applicants who are to be granted with magazine permit.

25 Granting of magazine permit

- (1) The Minister must, upon receiving a recommendation from the Committee under subsection 24(5), grant a magazine permit with conditions.
- (2) A magazine permit is valid for a period not exceeding 1 year.

- (3) A magazine permit is invalid if it is granted by the Minister in contravention of subsection (1).

26 Conditions of magazine permit

A magazine permit is subject to:

- (a) the provisions of this Act and any other relevant Act; and
- (b) any other conditions which may be prescribed, by Order, by the Minister, on the recommendation of the Committee.

27 Suspension of magazine permit

(1) If the Committee is satisfied that:

- (a) there is a breach of a condition of a magazine permit; or
- (b) there is a breach of a provision of the Act or its Regulations; or
- (c) the magazine permit holder is constructing a magazine building in contravention of a provision of this Act or its Regulations,

the Committee must in writing advise the Minister to serve a notice of non-compliance on the magazine permit holder as required under subsection (3).

- (2) In addition to subsection (1), if the Committee is satisfied that there is a serious breach of the magazine permit, the Committee must advise the Minister in writing to suspend the magazine permit, and the Minister may suspend the permit by written notice to the magazine permit holder for the period specified in the notice.
- (3) A notice of non-compliance must specify the condition of the magazine permit, or provision of the Act or its Regulations that was breached.
- (4) If the magazine permit holder fails to rectify the breach of the magazine permit specified in the notice of non-compliance, the Minister must on the written advice of the Committee:
- (a) suspend the magazine permit; and
- (b) serve a notice of suspension on the magazine permit holder; and

- (c) allow the magazine permit holder to provide reasons within a reasonable time specified by the Minister in the notice of suspension why the magazine permit should not be cancelled.
- (5) The magazine permit holder must not construct the magazine until the Committee in writing advises the Minister and the magazine permit holder that the suspension under subsection (2) or (4) is lifted.

28 Cancellation of magazine permit

- (1) If the magazine permit holder fails to comply with paragraph 27(4)(c), the Minister must, on the written advice of the Committee, cancel the magazine permit and the Minister must serve a notice of cancellation on the magazine permit holder.
- (2) If:
 - (a) a magazine permit is suspended under subsection 27(2); and
 - (b) the period of suspension expires; and
 - (c) the serious breach of the permit has not been remedied to the satisfaction of the Committee,

the Minister must, on the written advice of the Committee, cancel the magazine permit and the Minister must serve a notice of cancellation on the permit holder.

29 Application to construct magazine after 1 year of cancellation of a magazine permit

A person whose magazine permit has been cancelled under subsection 28(1) or (2) may apply for a permit to construct the magazine after 1 year from the date of cancellation of the permit.

PART 6 EXPLOSIVE USE PERMIT

30 Application for an explosive use permit

- (1) This Part does not apply to a person who intends to use fireworks.
- (2) A person who intends to use an explosive, must apply to the Minister for an explosive use permit.
- (3) The application must:
 - (a) be in the prescribed form; and
 - (b) be accompanied by the prescribed application fee.
- (4) The Minister must, within 7 working days after receiving an application, provide the application to the Committee.

31 Consideration of applications by the Committee

- (1) The Committee must, within 7 working days after receiving an application under subsection 30(4), consider the application.
- (2) In considering an application, the Committee must determine whether the application satisfies the requirements under subsection 30(3).
- (3) The Committee may, after receiving the application, request the applicant in writing to provide additional information within a reasonable time specified by the Committee.
- (4) If the applicant fails to comply with a request made under subsection (3), the application is taken to be withdrawn.
- (5) After considering an application under subsection (2) or (3), the Committee must in writing recommend to the Minister the names of the applicants who are to be granted with explosive use permit.

32 Granting of explosive use Permit

- (1) The Minister must, upon receiving a recommendation from the Committee under subsection 31(5), grant an explosive use permit with conditions.
- (2) An explosive use permit is valid for a period not exceeding 1 year.

- (3) An explosive use permit is invalid if it is granted by the Minister in contravention of subsection (1).

33 Conditions of explosive use permit

An explosive use Permit is subject to:

- (a) the provisions of this Act and any other relevant Act; and
- (b) any other conditions which may be prescribed, by Order, by the Minister, on the recommendation of the Committee.

34 Suspension of explosive use permit

- (1) If the Committee is satisfied that:

- (a) there is a breach of a condition of an explosive use permit; or
- (b) there is a breach of a provision of the Act or its Regulations,

the Committee must in writing advise the Minister to serve a notice of non-compliance on the explosive use permit holder as required under subsection (3).

- (2) In addition to subsection (1), if the Committee is satisfied that there is a serious breach of the explosive use permit, the Committee must advise the Minister in writing to suspend the explosive use permit, and the Minister may suspend the permit by written notice to the explosive use holder for the period specified in the notice.
- (3) A notice of non-compliance must specify the condition of the explosive use permit, or provision of the Act or its Regulations that was breached.
- (4) If the explosive use permit holder fails to rectify the breach of the explosive use permit specified in the notice of non-compliance, the Minister must on the written advice of the Committee:
- (a) suspend the explosive use permit; and
- (b) serve a notice of suspension on the explosive use permit holder;
and

- (c) allow the explosive use permit holder to provide reasons within a reasonable time specified by the Minister in the notice of suspension why the explosive use permit should not be cancelled.
- (5) The explosive use permit holder must not construct the magazine until the Committee in writing advises the Minister and the explosive use permit holder that the suspension under subsection (2) or (4) is lifted.

35 Cancellation of explosive use permit

- (1) If the explosive use permit holder fails to comply with paragraph 34(4)(c), the Minister must, on the written advice of the Committee, cancel the explosive use permit and the Minister must serve a notice of cancellation on the explosive use permit holder.
- (2) If:
 - (a) an explosive use permit is suspended under subsection 34(2); and
 - (b) the period of suspension expires; and
 - (c) the serious breach of the permit has not been remedied to the satisfaction of the Committee,

the Minister must, on the written advice of the Committee, cancel the explosive use permit and the Minister must serve a notice of cancellation on the permit holder.

36 Application to construct magazine after 1 year of cancellation of an explosive use permit

A person whose explosive use permit has been cancelled under subsection 35(1) or (2) may apply for a permit to construct the magazine after 1 year from the date of cancellation of the permit.

PART 7 HANDLING, USE AND DISPOSAL OF EXPLOSIVES

37 Handling of explosives

The handling of explosives must be carried out:

- (a) in the presence of a custom officer if the explosives are being handled in a customs controlled area; or
- (b) in the presence of a police officer if the explosives are being handled outside of a customs controlled area.

38 Use of explosives

The use of explosives is prohibited unless the explosives are used in accordance with the conditions of a valid permit granted under this Act.

39 Disposal of expired explosives

If the use by date of an explosive has expired, the explosive must, on the written direction of the Minister, be disposed of by a police officer to avoid or minimise the impact that it may cause to any person.

PART 8 OFFENCES AND ENFORCEMENT

40 Offences

- (1) A person must not:
 - (a) import explosives; or
 - (b) sell or supply explosives; or
 - (c) construct a magazine; or
 - (d) use an explosive,without a valid permit granted under this Act.
- (2) A person must not interfere, obstruct, threaten or use any insulting language to an enforcement officer in carrying out his or her functions or in exercising his or her powers under this Act.
- (3) A person must not refuse to allow an enforcement officer entry for the purposes of carrying out an inspection under section 46.
- (4) A person under the age of 18 years is prohibited from using an explosive.
- (5) A person must not provide false or misleading information in any application made under this Act.
- (6) A person must store explosives in a magazine for which a magazine permit is in force.
- (7) Despite subsection (6), fireworks may be stored in shops for a period relating to special occasions as determined by Order of the Minister on the advice of the Committee.

41 Penalties

- (1) A person who contravenes subsection 40(1) or (6) is liable on conviction:
 - (a) in the case of an individual- to a fine not exceeding VT3,000,000 or to a term of imprisonment not exceeding 6 years, or both; or

- (b) in the case of a body corporate- to a fine not exceeding VT10,000,000.
- (2) A person who contravenes subsection 40(2), (3) or (4) is liable on conviction to a fine not exceeding VT1,000,000 or to imprisonment for a term not exceeding 2 years, or both.
- (3) A person who contravenes subsection 40(5) is liable on conviction:
 - (a) in the case of an individual- to a fine not exceeding VT1,000,000;
or
 - (b) in the case of a body corporate- to a fine not exceeding VT2,000,000.

42 Penalty notice

- (1) An enforcement officer may serve a penalty notice on a person if it appears to the enforcement officer that the person has committed an offence under any provision of this Act.
- (2) A penalty notice is a notice to the effect that if the person served does not wish to have the matter determined by a Court, the person may, within a time and to a person specified in the notice, pay the amount of penalty stated in the penalty notice.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.
- (6) The Regulations may prescribe the amount of penalty payable for the offence if dealt with under this section.
- (7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty provided for in this Act.

- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

43 Appointment of enforcement officers

- (1) The Minister may by written instrument appoint the following persons to be enforcement officers for the purposes of this Act:
- (a) a compliance officer in the Ministry of Internal Affairs; and
 - (b) a custom officer; and
 - (c) a police officer.
- (2) The Director General must issue an identity card to an enforcement officer which must contain a recent photograph of the enforcement officer.

44 Functions of an enforcement officer

The functions of an enforcement officer are to ensure that the provisions of this Act and its Regulations are complied with.

45 Powers of an enforcement officer

An enforcement officer has the power to do all things that are necessary or convenient to be done for or in connection with the performance of his or her functions under this Act.

46 Inspection

For the purposes of implementing and ensuring compliance with the provisions of this Act and its Regulations, an enforcement officer may:

- (a) enter and inspect at any time any magazines and the premises at, or the land on, which the magazines are located; and
- (b) enter and inspect any other premises or land at a reasonable time after notifying the owner or occupier of his or her intention to do so; and
- (c) require the production of:

- (i) any permit required by this Act or its Regulations; and
 - (ii) any records required to be kept under section 49; and
 - (iii) any other documents that the enforcement officer believes on reasonable grounds are relevant to a contravention, or possible contravention, of a provision of this Act or its Regulations; and
- (d) make and retain copies of the whole or part of any permits, records or documents referred to in paragraph (c); and
- (e) exercise any other powers conferred on him or her under this Act or any other Act.

47 Seizure of explosives

- (1) If an enforcement officer has reasonable grounds to believe an offence against this Act or its Regulations is being or has been committed, he or she must seize any explosives relevant to the commission of the offence.
- (2) The seized explosives must be stored in a customs controlled area until they are destroyed or disposed of as the Minister in writing directs.

48 Protection from liability

A civil or criminal proceeding must not be brought against the Minister, any Committee member (including the Chairperson and Deputy Chairperson) or any enforcement officer for anything done or omitted to be done in good faith by him or her in carrying out his or her functions or in exercising his or her powers under this Act.

PART 9 MISCELLANEOUS PROVISIONS

49 Obligation to keep records

- (1) A magazine permit holder must keep written records of the explosives stored in the magazine and the items or goods used in connection with those explosives.
- (2) The magazine permit holder must keep the records of explosives for a period of 5 years and the records may be kept in electronic form.

50 Regulations

The Minister may make Regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

51 Repeals

The Explosives Act [CAP 6] is repealed.

52 Commencement

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