



## REPUBLIC OF VANUATU

### COMMISSIONS OF INQUIRY ACT [CAP 85]

#### APPOINTMENT OF THE COMMISSION OF INQUIRY INTO THE CLAIMS OF THE FISHERMANS ASSOCIATION ORDER NO. 119 OF 2013

In exercise of the powers conferred on me by subsection (1) and section 5 of the Commissions of Inquiry Act [CAP 85], I, the Honourable JONAS JAMES, Minister of Justice and Community Services, make the following Order.

##### **1 Establishment of the Commission**

The Commission of inquiry into the Claims of the Fishermans Association is established.

##### **2 Appointment of Commissioners**

The following persons are appointed as Commissioners:

- (a) Yoan TABISAL;
- (b) Christina THYNA;
- (c) Ephraim KALSAKAU;
- (d) Benjamin JULES.

##### **3 Chairperson of the Commission**

Mr. Yoan TABISAL is to be the Chairperson of the Commission.

##### **4 Appointment of the Secretary**

Mr Lawrence DICK is appointed as the Secretary of the Commission.

## **5 Location of inquiry**

The inquiry is to be made in Port-Vila at the Ministry of Justice Conference Room and such other place or places as the Commission determines.

## **6 Public Inquiry**

- (1) The inquiry is to be made in public as set out in the Schedule, using the E-Government possibilities and streaming video into the web and social media.
- (2) The room itself must be authorized only to accredited journalists.

## **7 Terms of reference**

- (1) The Terms of Reference of the Commission are set out in the Schedule.
- (2) The Terms of reference of the Commission may be amended or varied by the Minister in consultation with the Commission.

## **8 Remuneration and cost**

- (1) The members of the Commission are entitled, after submitting the report, to the following remuneration:
  - (a) Chairperson – VT500,000;
  - (b) Members – VT400,000;
  - (c) Secretary – VT500,000.
- (2) The remunerations referred to in subclause (1) must be paid as set out in the schedule.
- (3) Any sum disbursed without work completed is repayable with usual banking interest rate added.
- (4) Costs for the Commission to carry out its duties under this Order are to be met by the State.

## **9 Duration of the Inquiry**

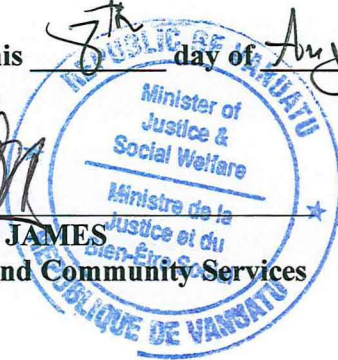
The Commission has 3 months from the commencement date of this Order to compile its findings.

**10 Commencement**

This Order commences on the day on which it is made.

Made at Port Vila this 7<sup>th</sup> day of August, 2013.

  
Honourable JONAS JAMES  
Minister of Justice and Community Services



## **SCHEDULE**

### **TERMS OF REFERENCE**

#### **1. Background:**

In 1998/1999, Vanuatu Financial Services Commission (VFSC) wound up the South Pacific Fishing Company, (SPFC) and put the company into receivership. Mr Julian Ala was appointed Liquidator, and together with the Government Business Unit, (GBU) worked together to liquidate the company. One of the issues that, the Liquidator and GBU dealt with was settlement of the outstanding debts including outstanding Salaries of the fishermen.

The Government through the Ministry of Finance have paid numerous payments to the fisherman's association including transfer of Palekula lease to Fisherman's Association, which led to a deed of release which was signed between Vangov and Fisherman's Association on 30th May 2000.

Despite these, claims are still coming in from various groupings who claim to represent the fishermen association.

It has also throughout the years, resulted in the burning of the Palekula Fishing facilities.

It also transpired through various preliminary discussions held that various different matters are involved in the claim resulting in a feeling that Justice was not really done and that favoritism was made.

As part of these matters, the SPFC issues, the general feeling of a lot of fishermen who feel that after having contributed to the country so many years in very hard conditions of work they didn't gain any recognition or consideration, are contributing to a negative environment developing the idea of spoliation of the fishermen.

On top of that during election year 2012, a lot of politicians promised, in exchange of fishermen votes, to compensate them and sometimes with extraordinary amounts.

#### **2. Aim of the Commission**

The aim of the Commission is to enquire to know if there are some valid claims that could exist for the fishermen and to look into them and the proper way to resolve them if any. Resolution proposed, if any, must first involve a true reconstructive process in accordance with our customs, before any other consideration.

#### **3. Objectives of the Commission**

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The objectives of the Commission are:-

- (i) The first objective is to find out who is (or are) the proper legal representative of the fishermen.
- (ii) The second objective of the Commission is to establish, whether there are any existing genuine or legitimate claims, wether moral, in cash or in kind, from the fishermen themselves and their representatives.
- (iii) The third objective is to inquire into how many and which compensations the government has paid to the fishermen's claims.
- (iv) The fourth objective is to establish how these compensations were given and if they were processed and made in accordance with our customs.
- (v) The fifth objective is to establish how these compensations were used and if they infringed rights of some fishermen in the use that was made of them.
- (vi) The sixth objective is to establish if the Government had some responsibilities or incurred some liabilities towards the fishermen at the time of the compensations, born in the manner of giving.
- (vii) The seventh objective is to recommend a process that will tell what is just and fair and will, in accordance with our customs, propose a settlement of differences that will cause Justice done and Justice seen to be done. This process will make sure that the matter will be closed for ever.

#### **4. Report.**

The Commission will provide a full report on the findings and recommendations of this inquiry to the Minister of Justice & Community Services, who will then consider the report and table a recommendation to the Council of Ministers.

#### **5. Public Inquiry**

The Commission of Inquiry shall be made in public in the following form:

- a. The hearings of the Commission shall be held in the Conference Room of the Ministry of Justice where only technicians and accredited journalists may be allowed;
- b. The hearings of the Commission shall use the e government system, the Internet, the social media and the streaming to make the commission available live to the Public, including through the Facebook.com/MOJCSparticipation page.
- c. The deliberation of the Commission shall be made in private and the report publicly released.

#### **6. Remuneration of the Commissioners**

Pursuant to subsection 12(1) of the Act, The Commissioners will be remunerated as follows:

- a. The Chairman will receive a payment of 500,000 vatu;
- b. The Members will receive a payment of 400,000 vatu each;
- c. The payment is to be made out of the workshop line held by the Ministry's budget after consultation with the Finance Officer;
- d. The payment will be made 50% before beginning of the Commission upon presentation of a bill to the Finance Officer of the Ministry of Justice, and 50% upon completion and presentation of the report to the Minister;
- e. Any sum disbursed without work completed is repayable with usual banking interests rate added.

#### **7. Remuneration of the Secretary**

- a. The Secretary of the commission will receive a payment of 500,000 vatu upon presentation of a bill addressed to the Finance Officer of the Ministry of Justice- Corporate Services, payable 50% before beginning of the Commission and 50% upon presentation and completion of the report.
- b. The Secretary will elect office for the duration of the Commission into the Ministry of Justice, First Floor. It will be its address for service.