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LOI NO. 10 DE 2013 SUR LA POLLUTION
(CONTROLE)

LOI NO. 14 DE 2014 RELATIVE A LA COMMISSION
NATIONAL DES SPORTS

NOTIFICATION OF PUBLICATION

ACT

POLLUTION (CONTROL) ACT NO. 10 OF 2013

VANUATU NATIONAL SPORTS COMMISSION ACT
NO. 14 OF 2014

ORDER

**ANTI-MONEY LAUNDERING AND COUNTER-
TERRORISM FINANCING ACT NO. 13 OF 2014**

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TERRORISM FINANCING REGULATION
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DEPUTY CHAIRMAN AND MEMBER OF THE
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- INSTRUMENT OF TRANSFER OF PRINCIPAL EXECUTIVE OFFICER OF MINISTRY OF HEALTH ORDER NO. 125 OF 2014



REPUBLIC OF VANUATU

POLLUTION (CONTROL) ACT NO. 10 OF 2013

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REPUBLIC OF VANUATU

Assent: 14/10/2013
Commencement: 27/06/2014

POLLUTION (CONTROL) ACT NO. 10 OF 2013

An Act to control the discharge and emission of pollution in Vanuatu.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY

1 Interpretation

In this Act, unless the contrary intention appears:

authorised officer means any of the following persons:

- (a) a person who the Director has delegated powers or functions under subsection 5(1);
- (b) a person appointed under subsection 6(1);

body corporate includes any licensed business;

Department means the Department of Environmental Protection and Conservation;

Director means the Director of the Department;

environment means the components of the earth and includes all or any of the following:

- (a) land and water;
- (b) layers of the atmosphere;
- (c) all organic and inorganic matter and living organisms including ecosystem services and processes;

- (d) weather and climatic systems;
- (e) the interacting natural, cultural and human systems that include components referred to in paragraphs (a) to (d);

hazardous substance means:

- (a) any substance which is, or which has the potential to be, toxic or poisonous, or which may cause injury or damage to human health or to the environment, including all persistent organic pollutants; and
- (b) any specific substance, object or thing determined under any law to be a hazardous substance; and
- (c) any other matter or thing deemed under international conventions applicable to Vanuatu to be a hazardous substance, or to have the characteristics of a hazardous substance;

Minister means the Minister responsible for Environment;

occupier, in relation to any premises, means a person who occupies or controls those premises or a part of the premises (whether or not that person owns the premises or that part of them);

owner means:

- (a) owner of land; or
- (b) proprietor of a land lease; or
- (c) in relation to a building, the owner of the building or the owner or proprietor of a lease of the land on which the building is erected;

pollutant includes any of the following that may result in environmental harm:

- (a) a gas, liquid or solid; or
- (b) an odour; or
- (c) an organism (whether alive or dead), including a virus; or

- (d) energy, including noise, radioactivity and electromagnetic radiation ; or
- (e) a hazardous substance; or
- (f) a combination of pollutants;

pollution means the introduction by persons, directly or indirectly, of substances or things into the environment which may result in harm to the environment, and hazardous to human health.

premises means a residential, commercial, industrial or other premises of any kind;

prescribed form means a form prescribed by regulations under this Act, or in the absence of any relevant regulations, a form approved for any purpose under this Act by the Director;

prescribed standard includes all:

- (a) standards and guidelines prepared by the Director in accordance with this Act;
- (b) standards and guidelines prepared by the Director in accordance with the Environmental Protection and Conservation Act [CAP 283]; and
- (c) conditions applying under any development consent or approval and any other permit applying to any premises.

2 Application of the precautionary principle

- (1) Despite the provisions of any other Act, all persons and agencies having responsibilities under this Act, or whose functions and powers may relate to any matter or thing involving the environment, are to apply the precautionary principle when discharging their responsibilities and functions, or exercising their powers.
- (2) For the purposes of this section, the precautionary principle is applied if, in the event of a threat or damage to the environment or human health exists in Vanuatu, a lack of full scientific certainty regarding the extent of adverse effects of the threat or damage is not to be used to prevent or avoid a decision being made to minimise the potential adverse effects or risks of environmental damage or degradation.

- (3) Any decision making made under the terms of this Act must be guided by consideration of climate change adaptation and mitigation issues.

3 Functions of the Director

- (1) The Director is responsible for the development, coordination and, where appropriate, implementation of the State's pollution control policies and programs.
- (2) In carrying out the functions outlined in subsection (1), the Director is to carry out the following:
- (a) administer the permit system under Part 2 of this Act;
 - (b) in the absence of relevant regulations, prepare guidelines and standards for the purpose of giving effect to this Act;
 - (c) undertake environmental assessment, monitoring, and inspection generally; and
 - (d) undertake such other duties and responsibilities as may lawfully be required by the Minister.

4 Powers of the Director

The Director has the powers conferred by this Act and such other powers as may be necessary or convenient for the performance of his or her functions under this Act.

5 Delegation of the functions or powers of the Director

- (1) The Director may, in writing, delegate to any officer of the Department or to any other person appointed under subsection 6(1), his or her powers or functions under this Act, other than the power of delegation.
- (2) The delegation may be made generally, or in respect of a particular matter or class of matters.
- (3) A person who has been delegated with the powers and functions under subsection (1) is an authorised officer.
- (4) The Director may at any time revoke or vary a delegation.

- (5) A delegation does not prevent the Director from exercising the power or function that he or she has delegated.

6 Appointment of other persons

- (1) The Director may in writing, appoint a person not employed at the Department as an authorised officer for the purpose of administering and enforcing this Act.
- (2) The powers and functions of an authorised officer must be stated in his or her instrument of appointment.
- (3) The Director is to consult with the Public Service Commission, the Police Service Commission, the relevant Municipal Council or Local Government Council before appointing the person as an authorised officer.

7 Enforcement powers of authorised officers

- (1) For the purposes of implementing, enforcing and ensuring compliance with the provisions of this Act and its regulations, an authorised officer may:
- (a) enter any land; and
 - (b) enter private premises after notifying the owner of his or her intention to do so; and
 - (c) examine any plant, facility, substance or thing located in a premises; and
 - (d) take or remove samples of any matter, substance or thing required for testing and analysis; and
 - (e) take possession of any machinery, equipment, plant or other thing for further examination or testing or for use as evidence; and
 - (f) take pictures, photographs or measurements or make sketches or recordings in any form; and
 - (g) require the production of records and information relevant to the requirements of this Act and its regulations, and to make and take copies of such records and information; and

- (h) order that the operation of whole or part of a Ministry, department, statutory authority, local authority, plant or facility be stopped for the purposes of inspection; and
 - (i) interview any person for the purposes of inspection; and
 - (j) exercise any other powers conferred to him or her under this Act or any other Act.
- (2) If an authorised officer takes possession of a matter, substance, plant machinery or other item or thing from a Ministry, department, statutory authority, local authority or facility, the Ministry, department, statutory authority, local authority or facility may request the Director to make a decision for the return of the matter, substance, plant machinery or other item or thing.
- (3) Any document or information collected under paragraph (1)(g) must not be disclosed unless the document or information is disclosed:
- (a) for official purposes; or
 - (b) with the consent of the person who provided the document or information or to whom the information relates; or
 - (c) in a Court or tribunal; or
 - (d) in the public interest.
- (4) A civil or criminal liability action is not to be taken against an authorised officer or observer in respect of anything done or omitted to be done by the officer in good faith in the execution or purported execution of his or her powers and duties under this section.
- (5) An employee of a Ministry, department, statutory authority or local authority or the owner, occupier or employer of a facility in respect of which an authorised officer is exercising powers under this Act, must:
- (a) give the authorised officer any assistance to enable the officer to exercise powers and functions under this Act; and
 - (b) provide any document or information required by the authorised officer for the purpose of this Act.

- (6) A person who knowingly or deliberately, conceals the location or existence of any matter, substance, plant machinery, document or information from an authorised officer, is guilty of an offence punishable on conviction by imprisonment of not more than 12 months, or a fine not exceeding VT2,000,000, or both.
- (7) A person who fails to comply with a request or direction of an authorised officer under this section, is guilty of an offence punishable on conviction by imprisonment of not more than 12 months, or a fine not exceeding VT2,000,000, or both.
- (8) For the purposes of this section, unless the context otherwise provides:

facility includes a building or place that provides a particular service or is used for a particular industry;

plant includes any machinery, equipment, tool or any of its components.

PART 2 OBLIGATIONS TO TAKE POLLUTION CONTROL MEASURES

8 Measures applying to premises

The owner or occupier of any premises must comply with any prescribed standard for the discharge of pollution, waste water and the emission of noise, odour or electromagnetic radiation from the premises.

9 Permit for the discharge of pollutants

(1) A person who occupies or owns any premises must not:

- (a) cause or increase the discharge of pollution, or the emission of odour, electromagnetic radiation or unreasonable noise from the premises; or
- (b) alter the nature of pollution discharged, or to increase the emission of noise, odour or electromagnetic radiation emitted from the premises,

unless that person is permitted to do so under a permit issued under this Act.

(2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction:

- (a) if the person is an individual – by imprisonment for not more than 6 months, or a fine not exceeding VT1,000,000, or both; or
- (b) if the person is a body corporate – by a fine not exceeding VT1,000,000.

(3) For the purposes of this section, noise is taken to be unreasonable having regard to:

- (a) its volume, intensity or duration; and
- (b) the time, place and other circumstances in which it is emitted.

10 Application for permit to discharge pollutants

- (1) Subject to subsection (4), an application for a permit to discharge or emit pollutants from any premises, building, structure or works is to be made to the Director in the prescribed form and must:
 - (a) be accompanied by the prescribed application fee; and
 - (b) include any information, plans, specifications and other document and information that the Director may require.
- (2) If an application complies with subsection (1), the Director must seek comments on it from the Department of Health and any other public authority or person who in the opinion of the Director has a direct interest in the subject matter of the application.
- (3) The Director must consider any comments received under subsection (2) and may either:
 - (a) grant a permit subject to such conditions as the Director may specify; or
 - (b) refuse to grant the permit.
- (4) For the purposes of paragraph (3)(a), the Director may impose 1 or more of the conditions listed in section 13.
- (5) A permit granted under this section is valid for a period of up to 12 months from the date on which it is issued and may be renewed.

11 Revocation, suspension or variation of a permit

- (1) The Director may, by notice in writing served on the holder of a permit, revoke or suspend the permit, if the Director is satisfied that:
 - (a) there has been a breach of any of the conditions of the permit; or
 - (b) the discharge or emission of pollutants has or is likely to endanger human health or cause excessive harm to the environment.
- (2) The Director may at any time vary a permit by serving a notice in writing to that effect on the holder of the permit.

12 Transfer of permit

- (1) A person who becomes the owner or occupier of any premises, in respect of which a permit issued is still valid, is to comply with the conditions of the permit and must within 30 days of coming into occupation or ownership of the premises, apply to the Director for the transfer of the permit.
- (2) An application for transfer of a permit is to be made in the prescribed form and accompanied by the prescribed fee.
- (3) If the Director is satisfied that the new owner or occupier of the premises will comply with the permit, the Director may transfer the permit to the new owner or occupier with or without further conditions.
- (4) The Director may refuse any application for the transfer of a permit on the grounds that such refusal is in the interests of protecting human health or the environment.

13 Conditions applying to permits

- (1) The Director may impose conditions to a permit at the time of issuance, or at any time during the period for which the permit is valid.
- (2) Without limiting subsection (1), the Director may impose the following conditions:
 - (a) requiring pollution control equipment to be installed and operated in any required manner to prevent, control or abate pollution; or
 - (b) specifying measures that are to be taken to minimise the likelihood of pollution due to any activity conducted or proposed to be conducted in the premises; or
 - (c) requiring the provision of monitoring equipment of a specified type or capacity; or
 - (d) requiring the implementation of a monitoring program and supply information concerning the characteristics, volume and effects of pollutants that are being or are to be discharged or emitted from the premises into the environment; or

PART 2 OBLIGATIONS TO TAKE POLLUTION CONTROL MEASURES

- (e) require measures to be taken to re-use or make available for re-use all or any part of the pollutant; or
 - (f) any other condition that the Director determines.
- (3) The holder of a permit must carry out any monitoring program required as a condition of the permit and must supply all information recorded as a result of that program to the Director in the manner required by the Director from time to time.

PART 3 ENFORCEMENT OF POLLUTION CONTROL MEASURES

14 Pollution abatement notice

- (1) If it appears to the Director that:
- (a) a pollutant is being or is likely to be discharged or emitted from the premises into the environment; or
 - (b) a pollutant or matter is being discharged or emitted which does not comply with a prescribed standard; or
 - (c) as pollutant, is causing or likely to cause pollution,
- he or she may serve a pollution abatement notice to the owner or occupier of the premises.
- (2) The notice is to be issued in writing and is to:
- (a) state the grounds upon which the notice is issued; and
 - (b) require the person identified in the notice to take any measure that the Director considers necessary to prevent, control or reduce the discharge or emission of pollutants, in the manner specified in the notice.
- (3) The Director may in writing, vary or revoke a notice.
- (4) In varying a notice, the Director may do any of the following:
- (a) extend the time to comply with any requirement in the notice if the Director is satisfied that the circumstances of the case justify such an extension; or
 - (b) vary any requirement in the notice.
- (5) Before varying a notice, the Director is to give the person an opportunity to state his or her objections, if any.

- (6) If the owner or occupier of a premises issued with a notice fails to comply with the requirements of the notice, the Director may:
- (a) order the closure of the premises under section 16; or
 - (b) issue a penalty notice under section 25.

15 Duties to notify the existence of a notice

If an owner or occupier of a premises to which a pollution abatement notice applies ceases to occupy or own the affected premises, he or she must give written notice within 14 days of ceasing to occupy or owning the premises:

- (a) to the Director, stating the name and address of the person who is to become the owner or occupier of the premises; and
- (b) to the new occupier or owner of the premises informing that person of the existence of a pollution abatement notice relating to that premises.

16 Order for closure

- (1) The Director may order the closure on a premises bound by a pollution abatement notice if the Director is satisfied that:
- (a) the person has not complied with any of the conditions contained in a pollution abatement notice served under this Part; and
 - (b) the non-compliance is causing or is likely to cause conditions detrimental to the environment or dangerous to human health.
- (2) After issuing an order for closure, the owner or occupier must take steps or measures necessary to:
- (a) stop the carrying on of the trade, process or activity; and
 - (b) close down the particular premises or part of the premises to which the pollution abatement notice relates; and
 - (c) prevent or minimise the effects of the breach of the pollution abatement notice on the environment and on human health.

- (3) The order for closure remains until the situation is improved to the satisfaction of the Director.
- (4) The order for closure is to be in a form approved by the Director.
- (5) A person who fails to comply with an order for closure is guilty of an offence punishable on conviction:
 - (a) if the person is an individual – by imprisonment for not more than 6 months, or a fine not exceeding VT1,000,000, or both; or
 - (b) if the person is a body corporate – by a fine not exceeding VT2,000,000.

17 Powers over discharges of pollutants

- (1) The Director may make arrangements to remove, disperse, destroy, dispose of or otherwise deal with a pollutant if the pollutant has been or is being discharged or emitted, or is likely to be discharged or emitted from a premises in breach of:
 - (a) a permit; or
 - (b) a pollution abatement notice; or
 - (c) an order for closure.
- (2) Any expenses incurred by the State in relation to the removal, disposal, destruction or other dealing with any matter under this section, is a debt owed to the State and may be recovered by the State and may be recovered by the State from the owner or occupier of the premises.

PART 4 POLLUTION OFFENCES

18 Discharge and emissions from vehicles, vessels or aircrafts

- (1) A person must not drive a vehicle, sail or conduct a vessel, or operate or fly an aircraft capable of discharging or emitting pollution into the environment unless the vehicle, vessel or aircraft complies with the prescribed standards and the pollution discharged or emitted is within the prescribed limit.
- (2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction:
 - (a) if the person is an individual – by imprisonment for not more than 12 months, or a fine not exceeding VT4,000,000, or both; or
 - (b) if the person is a body corporate – by a fine not exceeding VT8,000,000.
- (3) To avoid doubt, subsection (2) applies only to the owners of the vehicle, vessel or aircraft.

19 Discharge or emission of pollutants from premises

- (1) A person must not discharge or emit pollutants from any premises on or onto any land, body of water, foreshore or air so as to result in:
 - (a) unreasonable interference with the health, welfare, or amenity of any other person; or
 - (b) any adverse effect on the environment.
- (2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction:
 - (a) if the person is an individual – by imprisonment for not more than 12 months, or a fine not exceeding VT4,000,000, or both; or
 - (b) if the person is a body corporate – by a fine not exceeding VT8,000,000.

20 General penalty for conviction

- (1) A person who commits an offence under this Act for which no penalty is prescribed is guilty of an offence punishable on conviction:
- (a) if the person is an individual – by imprisonment for not more than 12 months, or a fine not exceeding VT2,000,000, or both; or
 - (b) if the person is a body corporate – by a fine not exceeding VT4,000,000.
- (2) In addition to imposing a penalty under subsection (1), the Court convicting a person of an offence against this Act may order that person, within a time specified in the order, to do any or all of the following:
- (a) carry out any act that he or she failed, refused or neglected to do; or
 - (b) remove any pollution from the environment caused by that person; or
 - (c) to pay costs relating to the cleaning up of pollution and the rehabilitation of any area affected by the pollution.
- (3) A person who fails, refuses or neglects to comply with an order made under subsection (2) is guilty of an offence punishable on conviction by imprisonment for not more than 5 years, or a fine not exceeding VT20,000,000, or both.

21 Defences to certain proceedings

It is a defence to the prosecution for an offence against this Act if the person charged with the offence proves that:

- (a) the discharge or emission occurred:
 - (i) as a result of preventing danger to human life, health or irreversible damage to a significant portion of the environment; or
 - (ii) as a result of an accident which was beyond such person's control and not caused by the negligence of such person; or
- (b) the person who occupies or owns the premises took all reasonable precautions to prevent that discharge or emission; or

- (c) the discharge or emission complies with any prescribed standard, permit or requirement in a pollution abatement notice, or a condition under a relevant development consent applying to the premises.

PART 5 MISCELLANEOUS PROVISIONS

22 Employers to be liable

If a person commits an offence under this Act while acting on the instruction of his or her employer, the employer of that person is to be liable to be prosecuted for the offence as if the employer had committed it.

23 Appeal to the Supreme Court

- (1) A person may appeal to the Supreme Court against any decision made by the Director under Part 2 of this Act.
- (2) An appeal must be brought, by originating application, not more than 28 days after the date on which the appellant is notified of the decision appealed against, or within such further period as the Supreme Court may allow.
- (3) The Supreme Court may:
 - (a) confirm, reverse or modify the decision appealed against, and make such orders and give such directions to the Director as may be necessary to give effect to the Court's decision; or
 - (b) refer the matter back to the Director with directions to reconsider the whole or any specified part of the matter.

24 Proving matters relating to pollution

- (1) If in any prosecution under this Act:
 - (a) evidence is given by a medical practitioner, or any health inspector, that a chemical, substance or item is hazardous or is dangerous to human health, or that any matter constitutes a health risk; or
 - (b) evidence is given by the Director or by an authorised officer that there has been, or may be an adverse effect on the environment,

the Court is to accept that evidence as *prima facie* evidence of the matters alleged.

- (2) If a prosecution relates to a chemical or other similar substance, the Court may have regard to any information disclosed on the packaging of the chemical or substance to determine whether there is a danger to health or to the public.
- (3) This section does not limit or affect the manner in which any matter may be proved to the satisfaction of a Court.

25 Penalty notice

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence under any provision of this Act or the regulations.
- (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 pay within a time and to a person specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) Payments made under this section are to be made at the Ministry of Finance and Economic Management which is then to be transferred into the Environmental Trust Fund established under the Environmental Protection and Conservation Act [CAP 283].
- (4) A penalty notice may be served personally or by post.
- (5) 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.
- (6) 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.
- (7) The regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and

- (c) prescribe different amounts of penalties for different offences or classes of offences.
- (8) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence by a Court.
- (9) 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.

26 Protection of persons performing duties under this Act

A person who lawfully exercises any power or performs any function under the authority of this Act is not liable for any loss or damage, or be subject to any prosecution, in relation to the reasonable exercise of that power or the performance of that function.

27 Regulations

- (1) Regulations may be made under this Act for the proper management and regulation of pollutant discharges and emissions and for the effective implementation of this Act.
- (2) Without limiting the generality of subsection (1), regulations may be made to:
 - (a) prescribe pollution control measures and standards;
 - (b) prescribe the forms and fees in respect of applications for a permit including application for the transfer of a permit;
 - (c) provide for any other power or procedure for the enforcement of this Act;
 - (d) prescribe measures and standards for the quality of fuel;
 - (e) prescribe standards, guidelines or codes of practice to give effect to any requirement under this Act.

- (3) Regulations made under this section may prescribe offences and impose penalties being imprisonment for a period not exceeding 12 months or fines not exceeding VT4,000,000, or both.

28 Commencement

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



RÉPUBLIQUE DE VANUATU

LOI N° 10 DE 2013 SUR LA POLLUTION (CONTROLE)

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RÉPUBLIQUE DE VANUATU

Promulguée : 14/10/2013
Entrée en vigueur : 27/06/2014

LOI N° 10 DE 2013 SUR LA POLLUTION (CONTRÔLE)

Prévoyant la réglementation des décharges et émissions de pollution.

Le Président de la République et le Parlement promulguent le texte suivant:

TITRE 1 DISPOSITIONS PRÉLIMINAIRES

1 Définition

Sous réserve du contexte:

agent agréé désigne:

- a) une personne à laquelle le directeur délègue des pouvoirs ou fonctions en vertu du paragraphe 5.1);
- b) une personne nommée en vertu du paragraphe 6.1);

personne morale couvre toute entreprise commerciale détenant une patente;

Service désigne le service de la Protection et de la Conservation de l'environnement;

directeur désigne le directeur du Service;

environnement désigne les composants de la terre et couvre tout ou partie de ce qui suivent:

- a) les terres et les eaux;
- b) les couches de l'atmosphère;
- c) les matières organiques et matières inorganiques et des organismes vivants, y compris leurs services et processus écosystémiques;

- d) les systèmes météorologiques et climatiques;
- e) les systèmes d'interaction naturelle, culturelle et humaine qui couvrent les composants cités aux alinéas a) à d);

substances dangereuses désigne:

- a) toute substance qui est ou peut être toxique ou qui peut causer toute blessure ou tout dommage à la santé humaine ou à l'environnement, y compris tout polluant biologique persistant;
- b) toute substance, tout objet ou chose particulier défini par une législation comme étant une substance dangereux; et
- c) toute autre matière ou chose s'avérant conformément aux conventions internationales applicables à Vanuatu être des substances dangereuses, ou avoir les caractéristiques des substances dangereuses;

ministre désigne le ministre de l'Environnement;

occupant désigne une personne qui occupe ou contrôle tout ou partie d'un établissement (qu'elle possède tout ou partie de cet établissement);

propriétaire désigne:

- a) le propriétaire des terres;
- b) le propriétaire d'un bail foncier; ou
- c) pour un bâtiment, le propriétaire du bâtiment ou le propriétaire d'un bail sur le terrain où est construit le bâtiment;

polluant couvre tout ou partie des éléments suivants pouvant entraîner des dommages environnementaux:

- a) du gaz, liquide ou solide;
- b) des odeurs;
- c) un organisme (vivant ou mort), y compris un virus;

- d) l'énergie, y compris le bruit, la radioactivité et la radiation électromagnétique;
- e) une substance dangereuse; ou
- f) un mélange de polluants;

pollution désigne l'introduction par une personne, directement ou indirectement, de substances ou choses dans l'environnement pouvant nuire à l'état de l'environnement et à la santé humaine;

établissement désigne un établissement résidentiel, commercial, industriel ou autre;

formulaire prévu désigne un formulaire prévu par règlement pris en vertu de la présente Loi, ou en l'absence de tout règlement pertinent, un formulaire approuvé par le directeur en vertu de la présente Loi à toute fin;

norme prévue couvre toute:

- a) norme et directive établies par le directeur en vertu de la présente Loi;
- b) norme et directive établie par le directeur en vertu de Loi sur la protection et la conservation de l'environnement (CAP 283); et
- c) conditions s'appliquant conformément à tout accord ou approbation de développement et à tout autre permis s'appliquant à tout établissement;

2 Application du principe de précaution

- 1) Malgré les dispositions de toute autre Loi, toute personne et tout organisme ayant des devoirs conformément à la présente Loi, ou dont les fonctions et les pouvoirs peuvent être liés à toute question engageant l'environnement, appliquent le principe de précaution lorsqu'ils exécutent leurs fonctions ou exercent leurs pouvoirs.
- 2) Aux fins du présent article, le principe de précaution s'applique lorsque dans le cas où il y a menace ou dommage pour l'environnement ou la santé humaine à Vanuatu, un manque de certitude scientifique entière quant à l'ampleur d'effets néfastes de la menace ou des dommages ne serve pas à empêcher ou éviter toute décision pour minimiser ces effets ou risques potentiels de dommages à ou dégradation de l'environnement.

- 3) Toute prise de décision en vertu des dispositions de la présente Loi doit être motivée par la prise en compte de l'adaptation au changement climatique et des questions de réduction.

3 Fonctions du directeur

- 1) Le directeur se charge de développer, coordonner et, le cas échéant, mettre en œuvre les politiques et programmes publics de contrôle de la pollution.
- 2) En exerçant les fonctions prévues au paragraphe 1), le directeur doit:
 - a) appliquer le système de permis en vertu du Titre 2 de la présente Loi;
 - b) préparer, en l'absence de règlement pertinent, des directives et normes aux fins d'application de la présente Loi;
 - c) mener de façon générale l'évaluation, la surveillance et l'inspection environnementales; et
 - d) exécuter toute fonction que peut demander légalement le ministre.

4 Pouvoirs du directeur

Le directeur a les pouvoirs que lui confère la présente Loi et tout autre pouvoir qui peut s'avérer nécessaire ou pratique pour l'exécution de ses fonctions.

5 Délégations des fonctions ou pouvoirs du directeur

- 1) Le directeur peut, par écrit, déléguer à tout agent du Service ou à tout agent nommée en vertu du paragraphe 6.1), ses pouvoirs ou fonctions visés dans la présente Loi, autre que le pouvoir de déléguer.
- 2) La délégation peut être générale ou porter sur une question particulière ou une catégorie particulière de questions.
- 3) Une personne à laquelle sont déléguées des pouvoirs et des fonctions en vertu du paragraphe 1) est un agent agréé.
- 4) Le directeur peut à tout moment révoquer ou modifier une délégation.

5) Une délégation n'empêche pas le directeur d'exercer le pouvoir ou la fonction qu'il a délégué.

6 Agent agréé

- 1) Le directeur peut par écrit nommer agent agréé une personne non employée au Service aux fins d'appliquer et d'exécuter la présente Loi.
- 2) Les pouvoirs et fonctions d'un agent agréé doit être précisés dans l'acte de sa nomination.
- 3) Le directeur est tenu de consulter la Commission de la Fonction publique, la Commission du service de police ou le conseil municipal ou le conseil provincial compétent avant de nommer un agent agréé.

7 Application des pouvoirs des agents agréés

- 1) Aux fins d'exécuter les, d'appliquer les et de s'assurer de la conformité aux dispositions de la présente Loi et de tout règlement qui en découle, un agent agréé peut:
 - a) pénétrer sur tout terrain;
 - b) pénétrer en un lieu privé après en avoir informé le propriétaire;
 - c) inspecter tout matériel, installation, substance ou tout ce qui se trouve en un lieu;
 - d) recueillir ou prélever des échantillons de toute matière, substance ou tout ce qu'il faut vérifier et analyser;
 - e) prendre possession de toute machine, tout équipement, matériel ou autre pour plus d'examen ou de vérification, ou comme pièce à conviction;
 - f) prendre des images, photos ou mesures ou faire des croquis ou tout enregistrement;
 - g) imposer la production des documents et renseignements qui conviennent aux dispositions de la présente Loi et tout règlement qui en découle et en recueillir des copies;

- h) ordonner l'arrêt du fonctionnement de tout ou partie d'un ministère, Service, autorité légale, autorité locale, atelier, matériel ou installation à des fins d'inspection;
 - i) interroger toute personne aux fins d'inspection; et
 - j) exercer tout autre pouvoir que lui confère la présente Loi ou toute autre Loi.
- 2) Lorsqu'un agent agréé prend possession d'une matière, d'une substance, d'un matériel, d'une machine, ou de tout objet d'un ministère, Service, autorité légale, autorité locale ou installation, il peut demander au directeur de prendre une décision pour retourner la matière, la substance, le matériel, la machine ou l'objet.
- 3) Tout document ou renseignement recueilli en vertu de l'alinéa 1)g) ne doit être communiqué que:
- a) à des fins officielles;
 - b) avec le consentement de la personne qui fournit le document ou le renseignement ou qui en fait l'objet;
 - c) devant un tribunal; ou
 - d) dans l'intérêt public.
- 4) Aucune action en responsabilité civile ou pénale ne doit être engagée contre l'agent agréé ou l'observateur pour tout ce qu'il fait ou commet de bonne foi dans le cadre de l'exécution ou de la présumée exécution de ses pouvoirs et fonctions conformément au présent article.
- 5) Un agent d'un ministère, Service, autorité légale, autorité locale ou le propriétaire, ou l'occupant ou l'employeur d'une installation pour laquelle un agent agréé exerce des pouvoirs en vertu de la présente Loi, doit:
- a) par tous les moyens permettre à l'agent agréé d'exercer ses pouvoirs et fonctions en vertu de la présente Loi; et
 - b) aux fins de la présente Loi fournir tout document ou renseignement que demande l'agent agréé.

- 6) Quiconque cache sciemment ou délibérément à un agent agréé la localisation ou l'existence de toute matière, substance, tout engin, machine, document ou renseignement commet une infraction qui l'expose sur condamnation à une peine d'emprisonnement n'excédant pas 12 mois ou une amende n'excédant pas 2 000 000 de vatu, ou aux deux peines à la fois.
- 7) Quiconque omet de se conformer à une demande ou à une directive d'un agent agréé en vertu du présent article commet une infraction qui l'expose sur condamnation à une peine d'emprisonnement n'excédant pas 12 mois ou une amende de 2 000 000 de vatu, ou aux deux peines à la fois.
- 8) Aux fins du présent article, sous réserve du contexte:

installation couvre un bâtiment ou un lieu qui fournit un service donné ou sert à une industrie donnée;

matériel couvre toute machine, équipement, outil ou toute pièce connexe.

TITRE 2 OBLIGATION DE PRENDRE DES MESURES DE LUTTE CONTRE LA POLLUTION

8 Mesures s'appliquant à des lieux

Le propriétaire ou l'occupant de tout lieu doit se conformer aux normes de rejet de pollution, d'eaux usées et d'émission de bruit, d'odeurs ou de radiation électromagnétique à partir du lieu.

9 Autorisation de rejet des polluants

- 1) Quiconque occupe ou possède un lieu ne doit:
 - a) causer ou augmenter le rejet de pollution, ou l'émission d'odeurs, de radiation électromagnétique ou de bruit inutile du lieu;
 - b) modifier la nature de la pollution, ou augmenter le bruit, des odeurs ou la radiation électromagnétique en provenance du lieu;que sur autorisation d'un permis délivré en vertu de la présente Loi.
- 2) Quiconque contrevient au paragraphe 1) commet une infraction qui l'expose sur condamnation:
 - a) pour une personne physique, à une peine d'emprisonnement n'excédant pas six mois ou à une amende n'excédant pas 1 000 000 de vatu, ou aux deux peines à la fois
 - b) pour une personne morale, à une amende n'excédant pas 1 000 000 de vatu.
- 3) Aux fins du présent article, un bruit est considéré nuisible eu égard à:
 - a) son volume, intensité et durée; et
 - b) le temps, le lieu et d'autres circonstances dans lesquelles il est émis.

10 Demande de permis de rejet des polluants

- 1) Sous réserve du paragraphe 4) une demande d'un permis pour rejeter ou émettre des polluants à partir de tout lieu, bâtiment, construction ou œuvre doit être adressée au directeur dans le formulaire prévu et doit:
 - a) être accompagnée d'un droit de demande prévu; et
 - b) inclure tout renseignement, plan, précision et autre document et renseignement que peut imposer le directeur.
- 2) Lorsqu'une demande est conforme au paragraphe 1), le directeur doit obtenir l'avis du service de la Santé et de toute autre autorité publique ou personne qui, à son avis, a un intérêt direct dans l'objet de la demande.
- 3) Le directeur doit examiner toute observation reçue conformément au paragraphe 2) et peut, soit:
 - a) accorder un permis sous réserve des conditions qu'il peut préciser; ou
 - b) refuser d'accorder le permis.
- 4) Aux fins de l'alinéa 3)a), le directeur peut imposer une ou des conditions citées à l'article 13.
- 5) Un permis accordé en vertu du présent article est valable pour une période de 12 mois renouvelable à compter de la date de sa délivrance.

11 Révocation, suspension ou modification d'un permis

- 1) Le directeur peut, par avis écrit adressé au détenteur d'un permis, révoquer ou suspendre le permis, s'il est certain que:
 - a) il y a eu infraction à une de ses conditions; ou
 - b) le rejet ou l'émission des polluants met ou va probablement mettre en danger la santé humaine ou nuire énormément à l'environnement.
- 2) Le directeur peut à tout moment modifier un permis en adressant par écrit un avis à cet effet à son détenteur.

12 Cession de permis

- 1) Une personne qui devient propriétaire ou occupant de tout lieu faisant l'objet d'un permis valable est tenu de se conformer aux conditions du permis et doit dans les 30 jours qui suivent la date du début de son occupation et de sa prise de possession adresser au directeur la demande de cession du permis.
- 2) Une demande de cession d'un permis doit être établie dans le formulaire prévu et accompagnée du droit prévu.
- 3) Lorsqu'il est certain que le nouveau propriétaire ou occupant du lieu va se conformer au permis, le directeur peut le lui céder sans autre condition.
- 4) Le directeur peut refuser toute demande de cession d'un permis aux fins de la protection de la santé humaine ou l'environnement.

13 Conditions de demande d'un permis

- 1) Le directeur peut imposer des conditions à un permis au moment de sa délivrance ou à tout moment pendant qu'il reste valable.
- 2) Sans préjudice au paragraphe 1), le directeur peut imposer les conditions suivantes:
 - a) faire installer et fonctionner comme il faut du matériel de contrôle de la pollution pour empêcher, surveiller ou réduire de la pollution;
 - b) préciser des mesures à adopter pour réduire la probabilité de la pollution suite à toute activité poursuivie ou prévue dans le lieu;
 - c) imposer la fourniture de l'équipement de contrôle de type ou capacité précis;
 - d) mettre en œuvre un programme de contrôle et fournir des renseignements concernant les caractéristiques, le volume et les effets des polluants qui sont ou vont être rejetés ou émis dans l'environnement à partir du lieu;
 - e) imposer des mesures à prendre pour réutiliser ou mettre à disposition pour réutiliser tout ou partie du polluant; ou

- f) toute autre condition qu'il peut définir.
- 3) Le détenteur d'un permis doit de temps à autre, mettre en œuvre tout programme de contrôle qu'impose le permis et fournir au directeur tout renseignement enregistré en conséquence de ce programme de la façon requise par le directeur.

TITRE 3 APPLICATION DES MESURES DE CONTRÔLE DE POLLUTION

14 Avis de réduction de la pollution

- 1) Lorsqu'il estime que:
 - a) un polluant est ou va probablement être rejeté ou émis dans l'environnement à partir du lieu;
 - b) un polluant ou une matière est rejeté ou émise en contravention à la norme prévue; ou
 - c) un polluant cause ou va probablement causer de la pollution,le directeur peut adresser au propriétaire ou occupant du lieu un avis de réduction de pollution.
- 2) L'avis à émettre par écrit doit:
 - a) préciser les raisons pour lesquelles il est émis; et
 - b) imposer à la personne visée dans l'avis de prendre toute mesure que le directeur estime nécessaire pour empêcher, contrôler ou réduire le rejet ou l'émission de polluants, de la façon précisée dans l'avis.
- 3) Le directeur peut par écrit modifier ou annuler un avis.
- 4) En modifiant un avis, le directeur peut:
 - a) prolonger la période de conformité à toute condition dans l'avis, s'il est certain que les circonstances du cas justifient la prolongation; ou
 - b) modifier toute condition prévue dans l'avis.
- 5) Avant de modifier un avis, le directeur doit, le cas échéant, laisser à la personne la possibilité de justifier ses oppositions.

- 6) Lorsque le propriétaire ou l'occupant d'un lieu auquel est adressé un avis manque de se conformer aux conditions de l'avis, le directeur peut:
- a) en vertu de l'article 16, ordonner la fermeture du lieu; ou
 - b) en vertu de l'article 25, émettre un avis de pénalité.

15 Devoir de signifier l'existence d'un avis

Lorsqu'un propriétaire ou occupant d'un lieu faisant l'objet d'un avis de réduction de pollution cesse d'occuper ou cède ce lieu, il doit, dans les 14 jours qui suivent la fin de l'occupation ou la possession, adresser un avis écrit:

- a) au directeur précisant le nom et l'adresse de la personne qui en devient propriétaire ou occupant; et
- b) au nouveau propriétaire ou occupant l'informant que le lieu fait actuellement l'objet d'un avis de réduction de pollution.

16 Ordre de fermeture

- 1) Le directeur peut ordonner la fermeture d'un lieu faisant l'objet d'un avis de réduction de pollution s'il est certain que:
 - a) la personne contrevient à une condition prévue dans l'avis de la réduction de pollution qui lui est adressé en vertu du présent Titre; et
 - b) la contravention crée ou va probablement créer des conditions préjudiciables pour l'environnement ou la santé humaine.
- 2) Suite à l'émission de l'ordonnance de fermeture, le propriétaire ou l'occupant doit prendre des mesures nécessaires pour:
 - a) cesser toute opération ou activité;
 - b) fermer tout ou partie du lieu qui fait l'objet de l'avis de réduction de pollution; et
 - c) empêcher ou réduire les effets de la contravention à l'avis de réduction de pollution sur l'environnement ou la santé humaine.

- 3) L'ordre de fermeture reste en vigueur jusqu'à ce que la situation soit, de l'avis du directeur, améliorée.
- 4) L'ordre de fermeture est établi dans le formulaire qu'approuve le directeur.
- 5) Quiconque omet de se conformer à une ordonnance de fermeture commet une infraction qui l'expose sur condamnation:
 - a) pour une personne physique, à une peine d'emprisonnement n'excédant pas 6 mois ou à une amende n'excédant pas 1 000 000 de vatu ou aux deux peines à la fois; ou
 - b) pour une personne morale, à une amende n'excédant pas 2 000 000 de vatu.

17 Pouvoirs sur les rejets de polluants

- 1) Le directeur peut prendre des dispositions pour enlever, disperser, détruire, éliminer ou traiter autrement un polluant qui a été ou est rejeté ou émis, ou qui va probablement être rejeté ou émis à partir d'un lieu en contravention à:
 - a) un permis;
 - b) un avis de réduction de pollution; ou
 - c) une ordonnance de fermeture.
- 2) Toute dépense que prend en charge l'État pour l'enlèvement, l'élimination, la destruction ou tout autre traitement de toute matière en vertu du présent article, constitue une dette envers l'État à recouvrer auprès du propriétaire ou de l'occupant du lieu.

TITRE 4 INFRACTIONS POUR POLLUTION

18 Rejets et émissions des véhicules, navires ou aéronefs

- 1) Nul ne doit conduire un véhicule, commander un navire ou piloter un aéronef pouvant rejeter ou émettre de la pollution dans l'environnement que si le véhicule, le navire ou l'aéronef est conforme aux normes prévues et la pollution rejetée ou émise est dans la limite établie.
- 2) Quiconque contrevient au paragraphe 1) commet une infraction qui l'expose sur condamnation:
 - a) pour une personne physique, à une peine d'emprisonnement n'excédant pas 12 mois ou une amende n'excédant pas 4 000 000 de vatu ou aux deux peines à la fois; ou
 - b) pour une personne morale, à une amende n'excédant pas 8 000 000 de vatu.
- 3) Pour éviter le doute, le paragraphe 2) ne s'applique qu'au propriétaire du véhicule, du navire ou de l'aéronef.

19 Rejets ou émission des polluants d'un lieu

- 1) Nul ne doit rejeter ou émettre des polluants à partir d'un lieu vers un terrain, une étendue d'eau, un rivage ou dans l'air pouvant:
 - a) nuire à la santé, au bien-être ou à la commodité d'autrui; ou
 - b) nuire à l'environnement.
- 2) Quiconque contrevient au paragraphe 1) commet une infraction qui l'expose sur condamnation:
 - a) pour une personne physique, à une peine d'emprisonnement n'excédant pas 12 mois ou une amende n'excédant pas 4 000 000 de vatu ou aux deux peines à la fois; ou
 - b) pour une personne morale, à une amende n'excédant pas 8 000 000 de vatu.

20 Peine générale

- 1) En vertu de la présente Loi, quiconque commet une infraction pour laquelle aucune peine n'est prévue s'expose sur condamnation:
 - a) pour une personne physique, à une peine d'emprisonnement n'excédant pas 12 mois ou à une amende n'excédant pas 2 000 000 de vatu ou aux deux peines à la fois; ou
 - b) pour une personne morale, à une amende n'excédant pas 4 000 000 de vatu.
- 2) En plus d'imposer la peine visée au paragraphe 1), le tribunal condamnant une personne pour une infraction à la présente Loi peut ordonner à celle-ci d'exécuter dans le délai précisé dans l'ordonnance tout ou partie de ce qui suit:
 - a) exécuter tout acte qu'elle omet, refuse ou néglige;
 - b) éliminer toute pollution qu'elle provoque dans l'environnement; ou
 - c) prendre en charge les frais de l'élimination de la pollution et la remise en état de toute zone touchée par la pollution.
- 3) Quiconque omet, refuse ou néglige de se conformer à une ordonnance rendue en vertu du paragraphe 2) commet une infraction qui l'expose sur condamnation à une peine d'emprisonnement n'excédant pas 5 ans ou d'amende n'excédant pas 20 000 000 de vatu ou aux deux peines à la fois

21 Défense dans une procédure

Dans une procédure pour une infraction à la présente Loi la personne accusée pour l'infraction peut se défendre en prouvant que:

- a) le rejet ou l'émission a lieu:
 - i) pour empêcher des risques pour la vie, la santé humaine ou des dommages irréversibles très importants pour l'environnement; ou
 - ii) en conséquence d'un accident qui dépasse son pouvoir de contrôle et qui ne provient pas de sa négligence;

TITRE 4 INFRACTIONS POUR POLLUTION

- b) que l'occupant ou propriétaire du lieu prend toute précaution normale pour empêcher ce rejet ou cette émission; ou

- c) le rejet ou l'émission est conforme à toute norme, tout permis ou toute condition établi dans un avis de réduction de pollution ou à une condition d'un accord de développement pertinent s'appliquant au lieu.

TITRE 5 DISPOSITIONS DIVERSES

22 Responsabilité revenant à l'employeur

Lorsqu'en vertu de la présente Loi une personne, agissant sur instruction de son employeur, commet une infraction, ce dernier s'expose à la poursuite judiciaire pour l'infraction comme s'il l'a lui-même commise.

23 Appel à la Cour suprême

- 1) Une personne peut faire appel à la Cour suprême de toute décision prise par le directeur en vertu du Titre 2 de la présente Loi.
- 2) Un appel doit par voie de requête être déposé dans les 28 jours au plus qui suivent la date où l'appelant est avisé de la décision faisant l'objet de l'appel ou dans un délai plus long que permet la Cour suprême.
- 3) La Cour suprême peut:
 - a) confirmer, infirmer ou modifier la décision faisant l'objet de l'appel et rendre toute ordonnance et donner toute instruction nécessaire au directeur pour exécuter sa décision; ou
 - b) renvoyer l'affaire au directeur en lui imposant de réexaminer tout ou partie de l'affaire.

24 Prouver des affaires relatives à la pollution

- 1) Lorsque lors de toute procédure en vertu de la présente Loi:
 - a) un médecin ou tout inspecteur de la santé publique fournit la preuve comme quoi un produit chimique, une substance ou un élément est dangereux pour la santé humaine ou une matière constitue un risque pour la santé; ou
 - b) le directeur ou par un agent autorisé fournit la preuve comme quoi il y a eu ou peut y avoir un effet néfaste pour l'environnement,le tribunal doit l'accepter comme preuve de prime abord des questions alléguées.

- 2) Lorsqu'une procédure porte sur un produit chimique ou toute autre substance similaire, le tribunal peut prendre en compte tout renseignement communiqué sur l'emballage du produit chimique ou de la substance pour déterminer s'il y a danger pour la santé ou le public.
- 3) Le présent article ne limite pas ou n'affecte pas la manière dont la question peut être prouvée à la satisfaction du tribunal.

25 Avis de pénalité

- 1) Un agent agréé peut remettre à une personne un avis de pénalité s'il estime que cette dernière a commis une infraction selon les dispositions de la présente Loi ou d'un règlement.
- 2) Un avis de pénalité permet à une personne ne désirant pas qu'une affaire fasse l'objet d'une décision du tribunal de verser dans le délai et à la personne précisée dans l'avis le montant de la pénalité prévue par un règlement pour une infraction si elle le fait en vertu du présent article.
- 3) Le versement en vertu du présent article est effectué au ministère des Finances et de la Gestion économique puis transmis au Fonds fiduciaire environnemental établi en vertu de la Loi sur la protection et la conservation de l'environnement (CAP 283).
- 4) Un avis de pénalité peut être remis en main propre ou par la poste.
- 5) Lorsque le montant de la pénalité prévue aux fins du présent article pour une infraction présumée est réglé en vertu du présent article, nul ne peut s'exposer à toute autre poursuite pour cette infraction.
- 6) Le versement en vertu du présent article ne doit pas être considéré comme une admission de la responsabilité aux fins de ou en aucun cas affecter ou porter préjudice, entraîner toute procédure civile découlant de la même occurrence.
- 7) Le règlement peut:
 - a) prévoir aux fins du présent article une infraction en la précisant ou en citant les dispositions qui la prévoit;
 - b) prévoir le montant exigible de la peine pour l'infraction si elle est traitée conformément au présent article; et

- c) prévoir différents montants des peines pour différentes infractions ou catégories d'infractions.
- 8) Le montant d'une peine prévu en vertu du présent article pour une infraction ne doit pas excéder le montant maximal de la peine qui pourrait être imposée pour l'infraction par le tribunal.
- 9) Le présent article ne limite pas la portée de toute autre disposition de ou pris en vertu de la présente Loi en ce qui concerne les poursuites judiciaires qui peuvent être engagées quant aux infractions.

26 Protection des personnes exécutant des fonctions en vertu de la présente Loi

Quiconque exerce légalement tout pouvoir ou exécute légalement toute fonction conformément à la présente Loi n'est pas responsable de toute perte ou tout dommage ou ne peut faire l'objet de toute procédure pour l'exercice normal de ce pouvoir ou l'exécution de cette fonction.

27 Règlement

- 1) Un règlement peut être pris conformément à la présente Loi pour mieux gérer et réglementer les rejets et émissions des polluants et pour appliquer efficacement la présente Loi.
- 2) Sans limiter la portée générale du paragraphe 1), un règlement peut être pris pour:
 - a) prévoir des mesures et normes de contrôle de la pollution;
 - b) prévoir des formulaires et droits pour la demande d'un permis, y compris la demande de cession d'un permis;
 - c) prévoir tout autre pouvoir ou procédure pour l'application de la présente Loi;
 - d) prévoir des mesures et normes pour la qualité du carburant;
 - e) prévoir des normes, lignes directives ou codes de pratique pour appliquer toute condition prévue dans la présente Loi.

- 3) Un règlement pris conformément au présent article peut prévoir des infractions et imposer une peine d'emprisonnement n'excédant pas 12 mois ou une amende n'excédant pas 4 000 000 de vatu, ou aux deux peines à la fois.

28 Entrée en vigueur

La présente Loi entre en vigueur à la date de sa publication au Journal officiel.



REPUBLIC OF VANUATU

VANUATU NATIONAL SPORTS COMMISSION ACT NO. 14 OF 2014

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REPUBLIC OF VANUATU

Assent: 19/06/2014
Commencement: 27/06/2014

VANUATU NATIONAL SPORTS COMMISSION ACT NO. 14 OF 2014

An Act to provide for the establishment, operation and regulation of the Vanuatu National Sports Commission and for related matters.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY MATTERS

1 Interpretation

In this Act, unless a contrary intention appears:

Commission means the Vanuatu National Sports Commission established under section 3;

Council means the Council of Ministers established under Article 40(1) of the Constitution;

Director General means the Director General of the Ministry of Youth, Sports Development and Training;

Minister means the Minister responsible for Youth, Sports Development and Training;

National Federation means National Sports Federations, duly recognized by their respective International Federations (IFs) as recognized by the International Olympic Committee (IOC);

sports means all forms of physical activity that contribute to physical fitness, mental wellbeing and social interaction such as play, recreation, organized or competitive sports and indigenous sports and games.

2 Objectives of the Commission

The objectives of the Commission are:

- (a) to institute a clear and manageable framework to guide and enhance the delivery of sports programmes in Vanuatu through a coordinated and partnership approach at all levels of participation; and
- (b) to provide coordination, direction and support the development of sports in Vanuatu; and
- (c) to establish higher standards of excellence in all sports; and
- (d) to improve participation in structured physical activity at all levels of participation; and
- (e) to support and encourage excellence in the performance of athletes and coaches by developing sports science and encouraging research in high performance of athletes.

PART 2 VANUATU NATIONAL SPORTS COMMISSION

3 Establishment of the Commission

- (1) The Vanuatu National Sports Commission is established.
- (2) The Commission is:
 - (a) a body corporate with perpetual succession; and
 - (b) to have a common seal; and
 - (c) capable of suing and being sued.

4 Composition of the Commission

The Commission consists of the following persons who are to be appointed by the Minister:

- (a) the Director General; and
- (b) the Director of the Department of Youth and Sports; and
- (c) the Chief Executive Officer (CEO) of the Vanuatu Association of Sports and National Olympic Committee (VASANOC); and
- (d) a Lawyer, nominated by the Vanuatu Law Society.

5 Chairperson and Deputy Chairperson of the Commission

- (1) The Director General is the Chairperson of the Commission.
- (2) The members of the Commission are to elect from amongst themselves a Deputy Chairperson.
- (3) The Deputy Chairperson is to hold office for a period of 3 years and may be re-elected.

6 Functions of the Commission

The Commission has the following functions:

- (a) to promote the development of sports in Vanuatu; and
- (b) to provide for facilities for sports and recreation; and
- (c) to promote the use of sporting facilities in the urban and rural areas of Vanuatu; and
- (d) to maintain Government owned sports facilities; and
- (e) to investigate developments in sports and disseminate knowledge and information about such developments; and
- (f) to promote athletes to professional levels in their respective National Federations; and
- (g) to be responsible for the promotion and advancement of National Federations; and
- (h) to advise the Minister on all matters relating to the development of sports; and
- (i) to co-ordinate and promote activities for the development of sports; and
- (j) to initiate, encourage and facilitate researches and development in sports; and
- (k) to encourage and support regular competition in all sports at all levels; and
- (l) to provide in partnership with National Federations specialised sports programmes; and
- (m) to assist with the organisation and funding of community sports development programmes; and
- (n) to establish standards for delivery at all levels of sports development; and
- (o) to assist the Ministry of Education to develop programmes for physical activities and sports in schools; and
- (p) to promote sports opportunities, provision of relevant equipment, programmes and personnel, for the training of people with disabilities; and

- (q) to support national sporting organizations and other related organizations in their planning, administration and development; and
- (r) to co-operate with national and international sporting organizations in aiming to foster a sporting environment that is free from the unsanctioned use of performance enhancing drugs and doping methods; and
- (s) to develop policies and make rules to ensure the safety and protection of all persons involved in any sports.

7 Powers of the Commission

- (1) The Commission 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.
- (2) Without limiting subsection (1), the Commission has the power to do all or any of the following:
 - (a) to acquire, purchase, hold, manage and dispose of real or personal property;
 - (b) subject to the prior approval of the Minister responsible for finance, to borrow or lend money on such terms and conditions as the Commission thinks fit;
 - (c) subject to the approval of the Minister, to formulate and implement policies in respect of the furtherance of and assistance to sports generally;
 - (d) to recommend to the Council that grants be made to any person or organization to undertake studies, assignments, commissions or investigations, or gain further appropriate experience, whether within Vanuatu or overseas, in respect of matters approved by the Commission;
 - (e) to recommend to the Council that grants be made or subsidies be paid to any person or organization engaged in the execution or promotion of any sporting activity, on such conditions as the Commission recommends;
 - (f) to collect, examine, disseminate, or publish any information relating to sports, or to any particular form of sports;

- (g) to examine and consider any existing or proposed policies or practices, or other matters, relating to sports, and with the approval of the Minister, to make recommendations to any appropriate person, organization or authority;
- (h) to carry out or encourage and support other persons or bodies in carrying out, research and studies into matters concerning sports and to disseminate knowledge and advice on such matters;
- (i) to advise, co-operate with or assist Government Departments, local authorities, voluntary organizations or other bodies or persons on any matters concerned with sports;
- (j) to develop any land or other property and to build and maintain buildings or other structures;
- (k) to enter into agreements with any local authority, corporation, society, firm or person for the management and maintenance of any land, buildings or facilities relating to sports;
- (l) to charge fees for admission to land or buildings vested in it or under its control, or in respect of any activity promoted, arranged or controlled by it, as the Commission thinks fit;
- (m) to establish or act as trustees of any charity, organization or body, the objects of which are in accordance with any of the Commission's objects.

8 Meetings of the Commission

- (1) The Commission is to meet at least 2 times a year at a place and time to be determined by the Chairperson, and may hold such other meetings as are necessary for the performance of its functions under this Act.
- (2) The quorum for a meeting is 3 members of the Commission present at the meeting.
- (3) A member present at the meeting has 1 vote and questions arising at a meeting are to be decided by a majority of votes.
- (4) If the voting at the meeting is equal, the member chairing the meeting has a casting vote.

- (5) The Chairperson is to preside at all meetings of a Commission and if the Chairperson is absent, the Deputy Chairperson is to chair that meeting.
- (6) The Secretary after consultation with the Chairperson, is to notify the other members of the Commission of the venue, time and date of the meeting.
- (7) Subject to this Act, the Commission may determine and regulate its own procedures.

9 Secretary of the Commission

- (1) The Director of the Department of Youth and Sports is the Secretary of the Commission.
- (2) The Secretary has the following functions:
 - (a) to prepare and circulate agenda and issue papers for meetings of the Commission; and
 - (b) to take minutes of the meetings of the Commission and circulate the minutes to members of the Commission within 3 weeks after each meeting; and
 - (c) to organize general meetings of the Commission; and
 - (d) such other functions as are imposed on the Secretary by this Act or any other Act.

10 Sitting allowances

The members of the Commission including the Chairperson are entitled to a sitting allowance of VT5, 000 for each day in which the Commission sits for a meeting.

PART 3 CHIEF EXECUTIVE OFFICER, FINANCE OFFICER AND OTHER STAFF

11 Chief Executive Officer of the Commission

- (1) The Commission is to appoint a Chief Executive Officer of the Commission.
- (2) The Commission is to determine the remuneration and terms and conditions of employment of the Chief Executive Officer.
- (3) A person must not be appointed to the position of the Chief Executive Officer unless he or she:
 - (a) has had at least 5 years experience in managing an office or organisation; and
 - (b) has applied for this position and has gone through a fair and transparent selection process.
- (4) The Commission may determine other criteria required for the position of the Chief Executive Officer.
- (5) The appointment of the Chief Executive Officer under subsection (1) must follow a fair and transparent selection process and must be based on merit.
- (6) A person is disqualified from being appointed as the Chief Executive Officer if he or she:
 - (a) is or becomes a member of Parliament, of a Provincial Government Council or a member of a Municipal Council; or
 - (b) is bankrupt or has made an arrangement in the nature of composition or assignment with his or her creditors; or
 - (c) has been convicted of an offence and sentenced to a term of imprisonment of 12 months or more, whether or not it is a suspended sentence.
- (7) Subject to subsection (8), the Chief Executive Officer is to hold office for a period of 5 years and is eligible for re-appointment for one term only.

- (8) A person ceases to hold office as Chief Executive Officer if:
- (a) he or she is disqualified for appointment under subsection (6); or
 - (b) he or she becomes permanently incapable of performing his or her functions under this Act; or
 - (c) he or she resigns from his or her office by notice in writing addressed to the Commission; or
 - (d) his or her appointment is terminated by the Commission for a serious breach of the terms and conditions of his or her employment.

12 Functions of the Chief Executive Officer

The Chief Executive Officer has the following functions:

- (a) to be responsible for the proper administration and good management of the Commission and its affairs; and
- (b) to coordinate and facilitate the implementation of the decisions of the Commission; and
- (c) to coordinate the presentation of monitoring reports on the implementation of the decisions of the meetings of the Commission; and
- (d) to manage expenditure on behalf of the Commission.

13 Finance officer

- (1) The Commission is to appoint a Finance Officer of the Commission.
- (2) The Commission is to determine the remuneration and terms and conditions of employment of the Finance Officer.
- (3) The Finance Officer has the following functions:
 - (a) to keep and maintain proper records of the income and expenditure of the funds of the Commission; and

- (b) to advise the Commission and the Chief Executive Officer on matters relating to the finances of the Commission; and
 - (c) to perform other tasks as may be directed by the Chief Executive Officer or the Commission relating to the finances of the Commission.
- (4) The appointment of Finance officer under subsection (1) must follow a fair and transparent selection process and must be based on merit.

14 Other Staff of the Commission

- (1) The Commission may employ other staff of the Commission as it considers necessary for the proper and efficient performance of the functions of the Commission.
- (2) The Commission is to determine the terms and conditions of employment of other staff of the Commission.
- (3) The appointment of other staff of the Commission must follow a fair and transparent selection process and must be based on merit.

PART 4 FINANCIAL, REPEAL AND MISCELLANEOUS PROVISIONS

15 Funds of the Commission

The funds of the Commission consists of the following:

- (a) monies appropriated to the Commission by Parliament; and
- (b) grants from aid donors or other international organisations; and
- (c) monies received from any other source.

16 Accounts of the Commission

- (1) The Commission is to keep proper accounts and other records in respect of its receipts and expenditure and is to prepare an annual statement of accounts in respect of each financial year.
- (2) The accounts of the Commission are to be made up to the 31st day of December in each financial year and are to be audited by the Auditor-General.
- (3) Fees payable to the auditor appointed under subsection (2) is to be paid out of the funds of the Commission.
- (4) The Commission must provide the Minister with a copy of the audited accounts referred to in subsection (2).

17 Annual reports

The Commission must within 3 months after the end of each financial year furnish a report to the Minister relating on the operations of the Commission for the preceding year.

18 Exemption from taxes, stamp duties, etc.

The Commission is to be exempt from all taxes and stamp duties on its profits, operations, capital, property and all documents or transactions of any description, all business licence fees and all customs and import duties.

18A Transfer of funds, assets, liabilities and contractual obligations

- (1) The funds, assets, liabilities and contractual obligations of the Vanuatu National Sports Council immediately before the commencement of this Act, are transferred upon the commencement of this Act, to the Vanuatu National Sports Commission.

- (2) Any act or thing done in the name of the Vanuatu National Sports Council immediately before the commencement of this Act, is taken to have been done in the name of the Vanuatu National Sports Commission.

19 Regulation

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 this Act.

20 Repeal

The Vanuatu National Sports Council Act [CAP 208] is repealed.

21 Commencement

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



REPUBLIQUE DE VANUATU

LOI NO. 14 DE 2014 RELATIVE A LA COMMISSION NATIONALE DES SPORTS

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REPUBLIQUE DE VANUATU

Promulguée : 19/06/2014

Entrée en vigueur : 27/06/2014

LOI NO. 14 DE 2014 RELATIVE A LA COMMISSION NATIONALE DES SPORTS

Disposant de la création, du fonctionnement et de la réglementation de la Commission nationale des Sports de Vanuatu et de toutes questions connexes.

Le Président de la République et le Parlement promulguent le texte qui suit :

TITRE I DISPOSITIONS PRÉLIMINAIRES

1 Définitions

Dans la présente Loi, sous réserve du contexte :

Commission désigne la Commission nationale des Sports de Vanuatu créée en vertu de l'article 3 ;

Conseil désigne le Conseil des Ministres constitué en vertu de l'article 40.1) de la Constitution ;

Directeur général désigne le Directeur général du Ministère de la jeunesse, du développement des sports et de la formation ;

Ministre désigne le Ministre responsable de la jeunesse, du développement des sports et de la formation ;

Fédération nationale désigne des fédérations de sport nationales, dûment reconnues par les Fédérations internationales (FI) qui les régissent respectivement, telles que reconnues par le Comité International Olympique (CIO) ;

sports désigne toutes les formes d'activité physique qui concourent à la bonne forme physique, au bien-être mental et aux interactions sociales, telles que sports de jeu, de loisir, organisés ou compétitifs et des sports et jeux indigènes.

2 Objectifs de la Commission

La Commission a pour objectifs :

- a) d'établir un cadre clair et gérable pour guider et rehausser la dissémination de programmes sportifs au Vanuatu grâce à une approche coordonnée en partenariat à tous les échelons de la participation ;
- b) d'assurer la coordination, la direction et l'encadrement du développement du sport au Vanuatu ;
- c) de définir des normes d'excellence plus élevées pour tous les sports ;
- d) de rehausser la participation à une activité physique structurée à tous les échelons ; et
- e) de soutenir et d'encourager l'excellence dans la performance des athlètes et des entraîneurs en développant la science des sports et en favorisant la recherche d'athlètes hautement performants.

TITRE II LA COMMISSION NATIONALE DES SPORTS DE VANUATU

3 Création de la Commission

- 1) Il est créé la Commission nationale des Sports de Vanuatu.
- 2) La Commission est :
 - a) dotée de la personnalité morale avec succession perpétuelle ;
 - b) dotée d'un sceau social ; et
 - c) capable d'ester en justice.

4 Composition de la Commission

La Commission est composée des personnes suivantes, nommées par le Ministre :

- a) le Directeur général ;
- b) le directeur du Service de la Jeunesse et des Sports ;
- c) de l'administrateur directeur général (ADG) de l'Association sportive de Vanuatu et du Comité national olympique [VASANOC – Vanuatu Association of Sports and National Olympic Committee] ; et
- d) d'un avocat désigné par l'association des avocats de Vanuatu.

5 Président et vice-président de la Commission

- 1) Le Directeur général est le président de la Commission.
- 2) Les membres de la Commission élisent l'un d'entre eux pour être le vice-président.
- 3) Le vice-président est élu pour un mandat de 3 ans et peut être réélu.

6 Fonctions de la Commission

La Commission a pour fonctions :

TITRE II LA COMMISSION NATIONALE DES SPORTS DE VANUATU

- a) de favoriser le développement des sports au Vanuatu ;
- b) de prévoir des aménagements pour les sports et les loisirs ;
- c) d'encourager l'usage d'aménagements sportifs dans les zones urbaines et rurales du Vanuatu ;
- d) d'assurer l'entretien des aménagements sportifs appartenant à l'Etat ;
- e) d'étudier les développements dans le domaine des sports et diffuser des connaissances et des renseignements à ce sujet ;
- f) d'encourager les athlètes à des niveaux professionnels dans leurs fédérations respectives ;
- g) de prendre en charge la promotion et l'avancement de fédérations nationales ;
- h) d'apporter conseil au Ministre sur tout ce qui a trait au développement des sports ;
- i) de coordonner et promouvoir des activités pour le développement des sports ;
- j) d'initier, encourager et faciliter des études en matière de développement sportif ;
- k) d'encourager et de soutenir des compétitions fréquentes dans tous les sports à tous les échelons ;
- l) d'assurer des programmes sportifs spécialisés en partenariat avec des fédérations nationales ;
- m) d'aider à l'organisation et au financement de programmes de développement des sports au sein des communautés ;
- n) de définir des normes de prestation à tous les échelons du développement des sports ;
- o) d'aider le Ministère de l'Education à élaborer des programmes d'éducation physique et sportive pour les écoles ;

- p) de favoriser les opportunités de pratiquer du sport, fournir les équipements, programmes et effectifs nécessaires pour l'entraînement de personnes handicapées ;
- q) de soutenir des organisations sportives nationales et d'autres organisations connexes dans leur planification, administration et développement ;
- r) de coopérer avec des organisations sportives nationales et internationales dans le but d'aménager un environnement sportif qui est libre de l'emploi non sanctionné de substances et de méthodes de dopage pour rehausser la performance ; et
- s) d'élaborer des directives et mettre au point des règles pour garantir la sécurité et la protection de toutes les personnes intervenant dans des activités sportives.

7 Pouvoirs de la Commission

- 1) La Commission est dotée du pouvoir de faire tout ce qui est nécessaire ou opportun dans l'exécution ou dans le cadre de l'exécution de ses fonctions.
- 2) Sans limiter la portée du paragraphe 1), la Commission a le pouvoir de faire tout ou partie de ce qui suit :
 - a) d'acquérir, d'acheter, de détenir, de gérer et de disposer de biens immeubles ou meubles ;
 - b) sous réserve de l'accord préalable du Ministre responsable des finances, d'emprunter ou de prêter de l'argent suivant les modalités et aux conditions que la Commission juge utiles ;
 - c) sous réserve de l'accord du Ministre, de formuler et mettre en oeuvre des politiques relatives à l'avancement et au soutien des activités sportives en général ;
 - d) de recommander au Conseil d'accorder des subventions à des personnes ou des organisations pour permettre de suivre des études, d'accepter des tâches assignées, des commissions ou des enquêtes, ou d'acquérir une expérience plus poussée, que ce soit au Vanuatu ou à l'étranger, dans des domaines approuvés par la Commission ;

- e) de recommander au Conseil d'accorder des subventions ou des subsides à des personnes ou des organisations s'occupant de mener ou de promouvoir une activité sportive, aux conditions que la Commission recommande ;
- f) de recueillir, étudier, diffuser ou publier tout renseignement se rapportant aux sports ou à toute forme particulière de sports ;
- g) d'étudier et de prendre en considération des politiques ou pratiques en vigueur ou proposées, ou d'autres questions se rapportant aux activités sportives, et, avec l'accord du Ministre, de soumettre des recommandations à toute personne, organisation ou autorité concernée ;
- h) de mener, ou d'encourager et d'appuyer d'autres personnes ou organismes à mener, des recherches et des études en ce qui a trait aux sports et de diffuser des connaissances et des conseils en la matière ;
- i) d'apporter conseil, de coopérer avec ou d'apporter concours à des services gouvernementaux, des autorités locales, des organisations bénévoles ou d'autres organismes ou personnes sur tout ce qui a trait aux sports ;
- j) de mettre en valeur des terrains ou d'autres propriétés et de construire et d'entretenir des bâtiments ou d'autres ouvrages ;
- k) de conclure des accords avec une autorité locale, une personne morale, une association, une entreprise ou une personne pour la gestion et l'entretien d'un terrain, de bâtiments ou d'aménagements en rapport avec le sport ;
- l) d'imposer des droits d'entrée pour des terrains ou des bâtiments dont elle est investie ou qui sont sous son contrôle ou pour toute activité qu'elle encourage, organise ou contrôle, selon que la Commission juge utile ;
- m) de créer ou d'agir en tant que fidéicommissaire pour une oeuvre caritative, organisation ou organisme dont les objets rejoignent ceux de la Commission.

8 Réunions de la Commission

- 1) La Commission doit se réunir au moins 2 fois par an, aux lieu et date et heure fixés par le président, et peut tenir d'autres réunions selon que de besoin pour l'exécution de ses fonctions aux termes de la présente Loi.
- 2) Le quorum requis pour une réunion est de 3 membres présents en personne.
- 3) Un membre présent à une réunion dispose d'une voix et toutes questions débattues lors d'une réunion doivent être décidées à la majorité des voix.
- 4) En cas d'égalité des voix, la personne qui préside la réunion a voix prépondérante.
- 5) Le président préside à toutes les réunions de la Commission et en son absence, le vice-président assure la présidence à la réunion en question.
- 6) Après avis du président, le secrétaire doit aviser les autres membres de la Commission du lieu, de la date et de l'heure d'une réunion.
- 7) Sous réserve de la présente Loi, la Commission arrête et règlemente ses propres procédures.

9 Secrétaire de la Commission

- 1) Le directeur du Service de la jeunesse et des sports est le secrétaire de la Commission.
- 2) Le secrétaire a pour fonctions :
 - a) de préparer et distribuer l'ordre du jour et les documents à débattre lors de réunions de la Commission ;
 - b) de prendre des notes durant les réunions de la Commission et de distribuer le compte rendu aux membres sous les 3 semaines qui suivent chaque réunion ;
 - c) d'organiser les assemblées générales de la Commission ; et
 - d) toutes autres fonctions imposées au secrétaire de par la présente ou de toute autre Loi.

10 Jetons de présence

Les membres de la Commission, y compris le président, sont en droit de recevoir une indemnité de présence de VT5.000 pour chaque jour durant lequel la Commission siège en réunion.

**TITRE III ADMINISTRATEUR DIRECTEUR GÉNÉRAL,
AGENT DE FINANCES ET AUTRES MEMBRES
DU PERSONNEL**

11 Administrateur directeur général de la Commission

- 1) La Commission nomme un administrateur directeur général pour la Commission.
- 2) La Commission fixe la rémunération et les modalités et conditions d'emploi de l'administrateur directeur général.
- 3) Une personne ne doit pas être nommée au poste d'administrateur directeur général sans avoir :
 - a) au moins 5 ans d'expérience dans la gestion d'un bureau ou d'une organisation ; et
 - b) postulé et été soumis à un processus de sélection juste et transparent.
- 4) La Commission peut définir d'autres critères requis pour le poste d'administrateur directeur général.
- 5) La nomination de l'administrateur directeur général en application du paragraphe 1) doit respecter un processus de sélection juste et transparent et être fondée sur le mérite
- 6) Une personne n'a pas qualité pour être nommée au poste d'administrateur directeur général si elle :
 - a) est ou devient un membre du Parlement, d'un Conseil provincial ou d'un Conseil municipal ;
 - b) est en faillite ou a conclu un arrangement sous forme de concordat ou de cession avec ses créanciers ; ou
 - c) a été inculpée pour délit et condamnée à une peine d'emprisonnement pour 12 mois ou plus, qu'il s'agisse d'une peine avec ou sans sursis.

TITRE III ADMINISTRATEUR DIRECTEUR GENERAL, AGENT DE FINANCES ET
AUTRES MEMBRES DU PERSONNEL

- 7) Sous réserve du paragraphe 8), l'administrateur directeur général est nommé pour un mandat de 5 ans, renouvelable une seule fois.
- 8) Une personne cesse d'occuper la charge d'administrateur directeur général si elle :
 - a) n'a pas qualité pour être nommée en vertu du paragraphe 5) ;
 - b) devient incapable en permanence de s'acquitter de ses fonctions aux termes de la présente Loi ;
 - c) démissionne par avis écrit adressé à la Commission ; ou
 - d) est démise de ses fonctions par la Commission pour manquement grave aux conditions de son emploi.

12 Fonctions de l'administrateur directeur général

L'administrateur directeur général a pour fonctions :

- a) d'assurer la bonne administration et la gestion de la Commission et de ses affaires ;
- b) de coordonner et faciliter l'application des décisions de la Commission ;
- c) de coordonner la présentation de rapports de suivi sur l'application des décisions prises lors de réunions de la Commission ; et
- d) de gérer les dépenses pour le compte de la Commission.

13 Agent des finances

- 1) La Commission doit nommer un agent des finances pour la Commission.
- 2) La Commission fixe la rémunération et les modalités et conditions d'emploi de l'agent des finances.
- 3) L'agent des finances est chargé des fonctions suivantes :
 - a) de tenir une comptabilité en règle pour les recettes et les dépenses de la Commission ;

TITRE III ADMINISTRATEUR DIRECTEUR GENERAL, AGENT DE FINANCES ET
AUTRES MEMBRES DU PERSONNEL

- b) d'apporter conseil à la Commission et à l'administrateur directeur général sur tout ce qui a trait aux finances de la Commission ; et
 - c) de s'acquitter de toutes autres tâches qui peuvent lui être confiées par l'administrateur directeur général ou la Commission en rapport avec les finances de la Commission.
- 4) La nomination de l'agent des finances selon le paragraphe 1) doit respecter un processus de sélection juste et transparent et être fondée sur le mérite.

14 Autres effectifs de la Commission

- 1) La Commission peut employer d'autres effectifs selon qu'elle estime nécessaire pour l'exécution efficace et en bonne et due forme des fonctions de la Commission.
- 2) La Commission fixe la rémunération et les modalités et conditions d'emploi des autres effectifs de la Commission.
- 3) La nomination d'autres effectifs de la Commission doit respecter un processus de sélection juste et transparent et être fondée sur le mérite.

TITRE IV DISPOSITIONS FINANCIÈRES, DIVERSES ET ABROGATION

15 Fonds de la Commission

Les fonds de la Commission sont constitués par :

- a) des affectations budgétaires approuvées par le Parlement ;
- b) des subventions provenant de bailleurs de fonds ou d'autres organisations internationales ; et
- c) des fonds reçus en provenance d'autres sources.

16 Comptes de la Commission

- 1) La Commission doit tenir une comptabilité en règle et tous autres registres en rapport avec ses recettes et dépenses et préparer des états financiers annuels pour chaque exercice.
- 2) Les comptes de la Commission doivent être clôturés au 31 décembre de chaque exercice et vérifiés par le Contrôleur Général des Comptes.
- 3) Les honoraires dûs au commissaire aux comptes nommé selon le paragraphe 2) sont payables par ponction sur les fonds de la Commission.
- 4) La Commission doit remettre au Ministre un exemplaire des comptes vérifiés mentionnés au paragraphe 2).

17 Rapports annuels

Dans les 3 mois qui suivent la clôture de chaque exercice, la Commission doit remettre un rapport au Ministre concernant les opérations de la Commission au cours de l'exercice écoulé.

18 Exemption de taxes, droits de timbre, etc.

La Commission est exemptée de toutes taxes et droits de timbre sur ses bénéfices, opérations, capitaux, biens et tous documents ou transactions de toute sorte, de tous droits de patente et de tous droits de douane à l'importation.

19 Règlements

Le Ministre peut établir des règlements prescrivant des questions :

- a) qu'il est stipulé ou qu'il est permis de prescrire conformément à la présente Loi ;
- b) qu'il est nécessaire ou opportun de prescrire pour l'application ou la mise en vigueur de la présente Loi.

20 Abrogation

La Loi relative au Conseil national des sports de Vanuatu [Chap. 208] est abrogée.

21 Entrée en vigueur

La présente Loi entre en vigueur le jour de sa publication au Journal Officiel.



REPUBLIC OF VANUATU

ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING ACT NO. 13 OF 2014

Anti-Money Laundering and Counter-Terrorism Financing Regulation Order No. 122 of 2014

In exercise of the powers conferred on me by section 53 of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014, I, the Honourable BOB LOUGHMAN, Acting Prime Minister, make the following Regulation:

1 Interpretation

In this Regulation, unless the contrary intention appears:

Act means Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014;

ML and TF means Money Laundering and Terrorism Financing.

2 Application form for registration

The application form of a reporting entity for registration under subsection 9(3) of the Act is set out in Schedule 1.

3 Prescribed identification process

For the purpose of section 12 of the Act, the customer identified processes for the following types of customers are set out below:

- (a) For an individual as a customer – a reporting entity must:

- (i) collect the following customer information set out in Table A of Schedule 2; and
 - (ii) at a minimum collect the following information:
 - (A) the customer's full name; and
 - (B) the customer's date of birth; and
 - (C) the customer's residential address; and
 - (D) the customer's occupation; and
 - (E) the purpose and intended nature of the business relationship with the reporting entity.
- (b) For Legal person as customer – a reporting entity must:
- (i) collect the following customer information set out in Table A of the Schedule 2; and
 - (ii) at a minimum collect the following information:
 - (A) the full name of the person as registered by Vanuatu Financial Service Commission, Department of Customs and Inland Revenue, or foreign registration or licensing; and
 - (B) if foreign formed, incorporated and registered, the country of registration and full registration detail; and
 - (C) legal form, registered address; and
 - (D) nature of legal person's business; and
 - (E) full name of directors and secretary; and
 - (F) full name and address of each beneficial owners and control structure; and
 - (G) provisions regulating the power to bind the legal person; and

- (H) authorization of any person purporting to act on behalf of the customer, and the identity of the persons; and
 - (I) the purpose and intended nature of the business relationship with the reporting entity.
- (c) For Legal arrangement as customer – a reporting entity must:
- (i) collect the following customer information set out in Table A of Schedule 2; and
 - (ii) at a minimum collect the following information:
 - (A) the full name of the trust;
 - (B) the full business name (if any) of the trustee in respect of the trust;; and
 - (C) the type of the trust; and
 - (D) the country in which the trust was established; and
 - (E) the full name and address of each of the trustee; and
 - (F) the full name and address of the settlor and each beneficiaries of the trust; and
 - (G) the purpose and intended nature of the business relationship with the reporting entity.

4 Prescribed verification process

- (1) A reporting entity must, for the purpose of section 16 of the Act:
- (a) verify the identification information collected in Table B of Schedule 2; and
 - (b) include appropriate risk-based systems and controls for the reporting entity to determine:
 - (i) what reliable and independent documentation the reporting entity will require a customer to produce for the purpose of

verifying the customer's name and date of birth and/or residential address (as the case may be);

- (ii) if any other customer information collected from a customer is to be verified – what reliable and independent documentation may be used to verify that information;
 - (iii) whether, and in what circumstances, the reporting entity is prepared to rely upon a copy of a reliable and independent document;
 - (iv) in what circumstances a reporting entity will take steps to determine whether a document produced by a customer may have been forged, tampered with, cancelled or stolen and, if so, what steps the reporting entity will take to establish whether or not the document has been forged, tampered with, cancelled or stolen;
 - (v) whether the reporting entity will use any authentication service that may be available in respect of a document;
 - (vi) whether, and how, to confirm customer information collected from a customer by independently initiating contact with the person that the customer claims to be.
- (2) If a reporting entity relies on reliable and independent electronic data for the verification of identification information collected, the reporting entity must include appropriate risk-based systems and controls to determine:
- (a) whether the electronic data is reliable and independent, taking into account the following factors:
 - (i) the accuracy of the data;
 - (ii) how secure the data is;
 - (iii) how the data is kept up-to-date;
 - (iv) how comprehensive the data is (for example, by reference to the range of persons included in the data and the period over which the data has been collected);
 - (v) whether the data has been verified from a reliable and independent source;

- (vi) whether the data is maintained by a government body or pursuant to legislation;
 - (vii) whether the electronic data can be additionally authenticated; and
 - (b) what reliable and independent electronic data the reporting entity will use for the purpose of verification;
 - (c) the reporting entity's pre-defined tolerance levels for matches and errors; and
 - (d) whether, and how, to confirm customer information collected from a customer independently.
- (3) A reporting entity must satisfactorily verify its customer by, at least one photographic verification document and at least one non-photographic verification document, all from a reliable and independent source.
- (4) If a photographic verification document is unattainable and if so proven, then at least 3 non-photographic verification documents is satisfactory.

5 Appropriate risk-based systems and controls

- (1) Subject to clause 3 and 4, a reporting entity must:
- (a) put in place appropriate risk-based systems and controls to adequately identify and verify its customer; and
 - (b) include appropriate risk-based systems and controls that are designed to enable it to be reasonably satisfied with the identification and verification of its customer.
- (2) When determining and putting in place appropriate risk-based systems and controls, the reporting entity must have regard to the nature, size and complexity of its business and the type of ML and TF risk that it might reasonably face in identifying its ML and TF risk, the reporting entity must consider the risk posed by the following factors:
- (a) its customer types, including any politically exposed persons; and
 - (b) the types of designated services it provides; and

- (c) the methods by which it delivers designated services; and
- (d) the foreign jurisdictions with which it deals.

6 Enhanced customer identification process

A reporting entity must have in place an enhanced identification process for customer which are deemed to be high ML and TF risk and must, in addition to the normal identification process under clause 3, conduct the following:

- (a) collect additional information on the intended nature of the business relationship;
- (b) collect information on the source of funds or source of wealth of the customer;
- (c) collect information on the ultimate beneficial owner of the customer (if legal person or arrangement);
- (d) collect information on the reasons for intended or performed transactions;
- (e) obtaining the senior management's approval of the reporting entity to commence or continue the business relationship.

7 Timing of identification and verification process

- (1) For the purpose of subsection 16(1) of the Act, a reporting entity must identify its customer before a business relationship is established between itself and its customer, offerings its service to the customer or opening an account for the customer.
- (2) The following are verification requirements to identify a customer:
 - (a) Prescribed event - a reporting entity must, within 2 working days verify the identification of customer undertaking the transaction specified under paragraph 12(3)(b) or (c) of the Act;
 - (b) Prescribed circumstance - a reporting entity in circumstances where it suspects on reasonable grounds that the customer is not the person that he or she claims to be. The reporting entity must, within 3 working days commencing after the day on which the circumstance comes into existence, take one or more of the actions below:

- (i) collect the necessary customer identification information in respect of the customer; or
 - (ii) verify, from a reliable and independent source, certain customer information that has been obtained in respect of the customer; to ensure it is reasonably satisfied that the customer is the person that he or she claims to be.
- (c) Prescribed period - a reporting entity must, within 14 working days verify the identification of customer undertaking the transaction specified under section 12 of the Act, except paragraph 12(3)(b) and (c) of the Act.

8 Prescribed on-going due diligence process

- (1) For the purpose of subsection 17(1) of the Act, a reporting entity must put in place appropriate risk-based systems and controls to determine whether any further customer information (including updating existing information) is required for its ongoing due diligence purposes:
- (a) Transaction Monitoring process - a reporting entity must have a transaction monitoring system (which must include appropriate risk-based systems and controls) to scrutinize transactions that are inconsistent with information held about the business relationship with the reporting entity. The transaction monitoring system must be able of identifying any transaction that appears to be suspicious, complex, unusual, and have no apparent visible economic or lawful purpose;
 - (b) Customer Monitoring Process - a reporting entity must have a customer monitoring process where it can monitor its relationship with its customer to ensure that the customer's activities being conducted is consistent with its knowledge of the customer, the customer's business, source of funds and risk profile;
 - (c) Enhanced Customer Due Diligence process - a reporting entity must apply the enhanced customer due diligence program when:
 - (i) it determines under its risk-based systems and controls that the ML and TF risk is high; or
 - (ii) a suspicion has arisen for the purposes of sections 20, 21, 22, 23 or 24 of the Act; or

- (iii) a party to the transaction, which the reporting entity is entering into or proposing to enter into, is physically present in, or is a business incorporated in, a prescribed foreign country.
- (2) In addition to paragraph (c), the reporting entity must include one or more of the following when undertaking appropriate risk-based systems and controls:
 - (a) regularly collect information from the customer or from third party sources in order to update its knowledge (derived from the enhanced identification process) of the customer;
 - (b) undertake more detailed analysis of the customer information including examining as far as possible the background and purpose of the transaction and business relationship;
 - (c) regularly verify or re-verify the customer information in accordance with the customer identification process;
 - (d) undertake more detailed analysis and monitoring of the customer's transactions – both past and future, including, but not limited to:
 - (i) the purpose or nature of specific transactions; or
 - (ii) the expected nature and level of transaction behaviour;
 - (e) seek senior management approval for:
 - (i) establishing, or continuing with a business relationship with a customer; or
 - (ii) whether a transaction on an account should be processed; or
 - (iii) whether the service should commence to be provided or continue to be provided to the customer;

9 Record keeping of prescribed information

For the purpose of subsection 19(2), a reporting entity must contain in its record the following information:

- (a) the nature of the transaction;

- (b) the amount of the transaction and the currency in which it was denominated;
- (c) the date on which the transaction was conducted;
- (d) the name, address and occupation, business or principal activity, as the case requires, of each person:
 - (i) conducting the transaction; and
 - (ii) for whom, or for whose ultimate benefit, the transaction is being conducted, if the reporting entity has reasonable grounds to believe that the person is undertaking the transaction on behalf of any other person;
- (e) the type and identifying number of any account/service with the reporting entity involved in the transaction;
- (f) if the transaction involves a negotiable instrument other than currency:
 - (i) the drawer of the instrument; and
 - (ii) the name of the institution on which it is drawn; and
 - (iii) the name of the payee (if any); and
 - (iv) the amount and date of the instrument; and
 - (v) the number (if any) of the instrument and details of any endorsements appearing on the instrument;
- (g) the name and address of the reporting entity, and of each officer, employee or agent of the reporting entity who prepared the relevant record or a part of the record;
- (h) any other information relating to that transaction.

10 Prescribed form for a suspicious transaction or activity

The prescribed forms for a suspicious transaction report or suspicious activity report under sections 20, 21, 23, 24 and 25 of the Act are set out in Schedule 3 and 4.

11 Prescribed entity conducting suspicious transactions

For the purposes of subsection 22(1) of the Act, the following group is deemed as a prescribed entity:

A person or group that has been designated by the Security Council of the United Nations, acting under Resolutions of the Security Council relating to terrorism, to be a person or entity associated with the Taliban or an Al Qaida terrorist group.

12 Prescribed threshold for large cash transaction

- (1) For the purpose of section 27 of the Act, the prescribed threshold for large cash transaction is VT 1 million or its equivalent in foreign currency.
- (2) If a person:
 - (a) carrying on a business required under paragraph 2(d),(e) and (f) of the Act, the prescribed threshold is VT 300,000 or its equivalent in foreign currency;
 - (b) carrying on a business required under subparagraph 2(n)(i) or (ii) of the Act, the prescribed threshold is VT 200,000 or its equivalent in foreign currency;
 - (c) carrying on a business of dealing in sale or hire of motor vehicle required under subparagraph 2(r)(xi) of the Act, the prescribed threshold is VT 500,000 or its equivalent in foreign currency.
- (3) A reporting of large cash transaction must be made and submitted to the Director within the following timeframe:
 - (a) In the case of transaction or transfer in Vatu, within 10 working days after the transaction or transfer is made; and
 - (b) In the case of transaction or transfer in a foreign currency, within 2 working days after the transaction or transfer is made.
- (4) The prescribed form for reporting large cash transaction is set out in Schedule 5.

13 Prescribed threshold for international currency transfer

- (1) The prescribed threshold, required under section 28 of the Act, for international currency transfer is VT 1 million or its equivalent in foreign currency.
- (2) A reporting of international currency transfer must be made and submitted to the Director within the following timeframe:
 - (a) In the case of transaction or transfer in Vatu, within 10 working days after the transaction or transfer is made; and
 - (b) In the case of transaction or transfer in a foreign currency, within 2 working days after the transaction or transfer is made.
- (3) The prescribed form for reporting international currency transfer is set out in Schedule 6.

14 Prescribed timeframe and form for reporting cross-border currency

- (1) For the purpose of subsection 30(2) of the Act, a reporting of cross-border movement of currency must be made and submitted to the Director within the following timeframe:
 - (a) In the case of transaction or transfer in Vatu, within 3 working days after the transaction or transfer is made; and
 - (b) In the case of transaction or transfer in a foreign currency, within 2 working days after the transaction or transfer is made.
- (2) The prescribed form for reporting cross-border movement of currency is set out in Schedule 7.

15 Prescribed form for notice to collect information

For the purposes of subsection 45(3) of the Act, the prescribed notice must be under the official letterhead and official stamp of the Financial Intelligence Unit and must contain adequate information on the following:

- (a) the reason for the notice; and
- (b) a brief description of the suspected activity and grounds for suspicion; and
- (c) Details of the persons (including legal persons and arrangements) involved as well as transactions and accounts/services used; and

- (d) the power or authorization of such notice under the Act; and
- (e) the type and manner of information required to be collected from the requested person; and
- (f) submission of copies of documents, data or record of the information requested; and
- (g) the prescribed timeframe within which the requested information and copy of the information is required to be delivered to the Director; and
- (h) the signature of the Director.

16 Commencement

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

Made at Port Vila this 27 day of June, 2014.


Honourable BOB LOUGHMAN
Acting Prime Minister



SCHEDULE 1



VANUATU FINANCIAL INTELLIGENCE UNIT

REGISTRATION OF REPORTING ENTITY WITH VANUATU FIU APPLICATION FORM

Pursuant to section 9(3) of the Anti-Money Laundering & Counter-Terrorism Financing Act No. 13 of 2014, persons carrying on a business stipulated under section 2 of the said Act are required to register the business with the Director

PART A: Detail of Applicant

2. Name of the Business (under which the applicant is carrying on a business or proposes to carry on a business and registered under Business Name Act):

3. Business Structure (sole trader, partnership, company or legal arrangement):

4. Full Business Address (unit no, floor level, Building, Compound, Street, location proximity, CBD, Island, Province):

5. CT No. of Business: _____

6. VFSC Registration No., RBV Licence No. etc...: _____

7. Overseas Registration or Licensing Detail: _____

8. Business Telephone No.s: _____

9. Business Facsimile No.s: _____

10. Business Email Address: _____

11. Business Postal Address: _____

12. Name and Address of Business Owner (If Partnership – Partners; Company – beneficial owner(s), Directors and Secretary; Trust – Trustee):

13. Description of the Business carried on or proposed to be carried on:

14. Date on which the applicant commenced or is to commence offering the registrable business:

PART B: Detail of Authorised Personal in the Business

15. Detail of authorized persons stated under 12:

- a) Full Name: _____
- b) Date of Birth: _____
- c) Position/Title in Business: _____
- d) Responsibility within the Business: _____
- e) Business Telephone No.: _____
- f) Business Facsimile No.: _____
- g) Business Email Address: _____

16: confirmation whether the authorized persons have been subject to adverse reporting (*charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism and other serious offence under the Penal Code, Counter Terrorism & Transnational Organised Crime or the AML&CTF Act; or has been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, which were determined adversely to the authorized person(s) and which reflected adversely on the applicant's or the authorized persons' competence, diligence, judgment, honesty and integrity*)

17. if an authorized person has been subjected to adverse reporting, detail of each instance as the case may be, for the applicant and each authorized person:

18. Detail of Business whether it is a subsidiary of another entity, and controlled by another entity:

19. if so, full names, addresses, positions and title of the directors of the other entity or entities:

PART C: Detail of Business

20. Detail and location (full street address) of Business' affiliates, branches, subsidiaries and/or agents in Vanuatu:

21: Registration Detail of the Business (in foreign or domestic jurisdiction:

PART D: Detail of Business' Affiliate

22. Full name of the person (other person) who is proposed to be registered as an affiliate of the applicant:

23. Business Name under which the other person is carrying on a business or proposes to carry on a business:

24. Business Structure (sole trader, partnership, company or legal arrangement):

25. Full Business Address (unit no, floor level, Building, Compound, Street, location proximity, CBD, Island, Province):

26. CT No. of Business: _____

27. VFSC Registration No., RBV Licence No., etc... _____

28. Overseas Registration or Licensing Detail: _____

29. Business Telephone No.s: _____

30. Business Facsimile No.s: _____

31. Business Email Address: _____

32. Business Postal Address: _____

33. Name and Address of Business Owner (If Partnership – Partners; Company – beneficial owner(s), Directors and Secretary; Trust – Trustee):

34. Description of the Business carried on or proposed to be carried on:

35. Date on which the applicant commenced or is to commence offering the registrable business:

PART E: Detail of Authorized Personal in the Business's Affiliate

36. Detail of authorized persons under 33:

a) Full Name: _____

b) Date of Birth: _____

c) Position/Title in Business: _____

d) Responsibility within the Business: _____

e) Business Telephone No.: _____

f) Business Facsimile No.: _____

g) Business Email Address: _____

37: confirmation whether the authorized persons have been subject to adverse reporting (*charged, prosecuted and/or convicted in relation to money laundering, financing of terrorism and other serious offence under the Penal Code, Counter Terrorism & Transnational Organised Crime or the AML&CTF Act; or has been the subject of civil r criminal proceedings or enforcement action, in relation to the management of an entity, which were determined adversely to the authorized person(s) and which reflected adversely on the applicant's or the authorized persons' competence, diligence, judgment, honesty and integrity*)

38. if an authorized person has been subjected to adverse reporting, detail of each instance as the case may be, for the applicant and each authorized person:

39. Detail of Business whether it is a subsidiary of another entity, and controlled by another entity:

40. if so, full names, addresses, positions and title of the directors of the other entity or entities:

PART F: Consent of Registration

41. Name of person completing the registration form: _____

42. Position of person within the business: _____

43. Whether management approval has been sought: _____

44. Signature of Person, Applicant and management:

SCHEDULE 2

TABLE A – COLLECTION OF CUSTOMER INFORMATION

Individual Identification	<p>(1) In relation to a customer who is an individual:</p> <ul style="list-style-type: none"> (a) the customer's name; (b) the customer's residential address; (c) the customer's date of birth; (d) any other name that the customer is known by; (e) the customer's country(ies) of citizenship; (f) the customer's country(ies) of residence; (g) the customer's occupation or business activities; (h) the nature of the customer's proposed relationship with the reporting entity - including: <ul style="list-style-type: none"> (i) the purpose of specific transactions; or (ii) the expected nature and level of transaction behavior; (i) the income or assets available to the customer; (j) the customer's source of funds including the origin of funds; (k) the customer's financial position; (l) the beneficial ownership of the funds used by the customer; (m) the beneficiaries of the transactions being facilitated by the reporting entity on behalf of the customer including the destination of funds. <p>(2) In relation to a customer who is a sole trader:</p> <ul style="list-style-type: none"> (a) The full name of the sole trader as registered under VFSC (b) The full address of the business or customer's residential address; (c) Business License, CT number issued to the business; (d) Nature of the business activities conducted by the sole trader; (e) Beneficial owners of the business.
Legal person	<p>(1) In relation to a customer who is a company:</p> <ul style="list-style-type: none"> (a) the full name of the company as registered by VFSC; (b) the full address of the company's registered office; (c) the full address of the company's principal place of business (if any); (d) the VFSC, Business License and CT number issued to the company; (e) company structure; (f) the name of each director of the company; (g) the name of the company secretary (h) the date upon which the company was registered by VFSC; (i) the name of any company secretary;

	<p>(j) the nature of the business activities conducted by the company; (k) the full name and address of each beneficial owner of the company;</p> <p>(2) In relation to a customer who is a foreign registered Company:</p> <p>(a) full name of the foreign company; (b) the full address of the company's registered office and registered agent in Vanuatu; (c) the full address of the company's principal place of business in Vanuatu; (d) the company structure; (e) name of each company director and secretary; (f) nature of the business activities conducted by the company (1) in country of registration, formation, incorporation; (2) in Vanuatu; (g) name and address of beneficial owners of the company; (h) the country in which the company was formed, incorporated or registered; (i) whether the company is registered by the relevant foreign registration body and if so, its the company structure; (j) the name of the relevant foreign registration body; (k) any identification number issued to the company by the relevant foreign registration body upon the company's formation, incorporation or registration; (l) the date upon which the company was formed, incorporated or registered in its country of formation, incorporation or registration; (m) the full address of the company in its country of formation, incorporation or registration as registered by the relevant foreign registration body.</p> <p>(3) In relation to a customer who is an unregistered foreign Company:</p> <p>(a) the full name of the company; (b) full address of the company's registered office and registered agent in Vanuatu; (c) the full address of the company's principal place of business in Vanuatu; (d) company structure; (e) name of each company director and secretary; (f) the country in which the company was formed, incorporated or registered; (g) whether the company is registered by the relevant foreign registration body and if so: (i) any identification number issued to the company by the relevant foreign registration body upon the company's formation, incorporation or registration; (ii) the full address of the company in its country of formation, incorporation or registration as registered by the relevant foreign registration body; and (iii) company structure; (h) the name of the relevant foreign registration body; (i) the date upon which the company was formed, incorporated or registered in its country of formation, incorporation or</p>
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	<p>registration;</p> <p>(j) the full address of the company's principal place of business in that country; and</p> <p>(k) the name and address of any beneficial owner of the company.</p> <p>(4) In relation to a customer who is a partner of a partnership:</p> <p>(a) the full name of the partnership;</p> <p>(b) the full business name of the partnership as registered under VFSC;</p> <p>(c) the Business' license and VAT number</p> <p>(d) the country in which the partnership was established;</p> <p>(e) the full name and residential address of any partner;</p> <p>(f) the respective share of each partner in the partnership;</p> <p>(g) the nature of business of the partnership;</p> <p>(h) the date upon which the partnership was established.</p> <p>(5) In relation to a customer who is an incorporated association:</p> <p>(a) the full name of the association as registered under VFSC;</p> <p>(b) the full address of principal place of administration or registered office (if any) or the residential address of the association's public officer or (if there is no such person) the association's president, secretary or treasurer;</p> <p>(c) registration number issued by VFSC or any unique identifying number issued to the association upon its incorporation;</p> <p>(d) the full name of the chairman, secretary and treasurer or equivalent officer in each case of the association;</p> <p>(e) country in which the association was incorporated;</p> <p>(f) the date upon which the association was incorporated;</p> <p>(g) the objects of the association;</p> <p>(h) in respect of any member – the information required to be collected from an individual under the reporting entity's customer identification program in respect of individuals; and</p> <p>(i) the full business name, if any, of the association.</p> <p>(6) In relation to a customer who is a registered co-operative:</p> <p>(a) the full name of the co-operative as registered with the Registrar of Co-operatives;</p> <p>(b) the full address of the co-operatives registered office or principal place of operations (if any) or the residential address of the co-operatives secretary or (if there is no such person) the co-operatives president or treasurer;</p> <p>(c) any unique identifying number issued to the co-operative upon its registration by the relevant registration body;</p> <p>(d) the full name of the chairman, secretary and treasurer or equivalent officer in each case of the co-operative;</p> <p>(e) in respect of any member – the information required to be collected from an individual under the reporting entity's customer identification program in respect of individuals;</p> <p>(f) the full business name, if any, of the co-operative;</p> <p>(g) the country or province in which the co-operative is registered;</p> <p>(h) the date upon which the co-operative was registered;</p> <p>(i) the objects of the co-operative; and</p> <p>(j) a certified copy or certified extract of the rules of the co-operative.</p>
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	<p>(7) In relation to a customer who is a government body:</p> <ul style="list-style-type: none"> (a) the full name of the government body; (b) the full address of the government body's principal place of operations; (c) whether the government body is an entity or emanation, or established under legislation; (d) information about the ownership or control of a government body that is an entity or emanation or established under legislation of a foreign country; and (e) the name of any legislation under which the government body was established.
Legal arrangement	<p>(6) In relation to a customer who is a trustee of a trust:</p> <ul style="list-style-type: none"> (a) the full name of the trust; (b) the full business name (if any) of the trustee in respect of the trust; (c) the type of the trust; (d) the country in which the trust was established; (e) if any of the trustees is an individual – in respect of any of those individuals, the information required to be collected from an individual under the reporting entity's customer identification program in respect of individuals; (f) if any of the trustees is a company – in respect of any those companies, the information required to be collected from a company under the reporting entity's customer identification program in respect of companies; (g) the full name and address of any trustee in respect of the trust; (h) the full name of any beneficiary in respect of the trust; (i) if the terms of the trust identify the beneficiaries by reference to membership of a class – details of the class; (j) the date upon which the trust was established; (k) the full name of the trust manager (if any) and settlor in respect of the trust.

TABLE B- VERIFICATION DOCUMENTS

Category A – Official Document		Category B – Identifying Documents for individual person	Category C – Identifying Documents for Corporate Body
<i>Photo bearing document</i>	<i>Non-photo document</i>	<i>Document</i>	<i>Document</i>

<ul style="list-style-type: none"> • Current passport (all countries) • Current driver's license (all countries) • Government identification documents • Employment Identification document • Vanuatu Fire Arms Licence • Student Photo Identification Card • VNPF or superannuation Membership Card 	<ul style="list-style-type: none"> • Certificate of Christening/Baptism • Citizenship Certificate • Birth Certificate • Employment identification • Employment records • Employment pay slips • Other official records from the Government of the Republic of Vanuatu • An existing customer who is known favorably to the financial institution and who has established a relationship with the financial institution for more than 2 years (verified by a financial institution signature). • Foreign pensioner's card • Vanuatu work permit • Marriage certificate • Educational institution certificates • Student registration document from an educational institution • Government health card • License or permit issued by the Government of the Republic of Vanuatu • Public utilities record (such as an electricity or telephone bill) • Current records of membership of professional or trade organisation • Records from a bank (including bank or credit cards such as Visa, Diners Club, Mastercard, American Express; or statements for an account or credit card) 	<p>A written reference confirming the customer's full name, date of birth, occupation, and residential address from one of the following acceptable referees:</p> <ul style="list-style-type: none"> • A senior bank employee • A lawyer or legal practitioner • A registered medical practitioner or dentist • A qualified pharmacist • A Court Magistrate • A senior public servant • A Customs or Immigration officer • A Minister of Religion • A Church leader (Elder, Deacon) • A Court Judge • A local level Government Councillor • A Notary • A Headmaster of a primary or secondary school • A serving Member of Parliament • A Police officer • An accountant who is a member of an association of accountants • A senior 	<p><i>Group 1</i></p> <ul style="list-style-type: none"> • Certificate of incorporation and any change of name certification • Certificate of business name • Address of the registered office • Name and address of registered agent • Address of the principal place of business • Memorandum and articles of association or by-laws of the company 	<p><i>Group 2</i></p> <ul style="list-style-type: none"> • Verified identity of each beneficial owner of the business who hold an interest of 10% or more in the business. • Verified identity of the persons on whose instruction the directors, signatories on the account or the individuals authorised to deal with the financial institution are empowered to act; • In the case of a bank account, the verified identity of the account signatories or the persons authorised to deal with the financial institution • In the case of a bank account, copy of power of attorney or other similar instructions given by the directors • Recent business annual return (as filed with VFSC) • Written resolution or bank mandate, signed application or other form of authority
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	<ul style="list-style-type: none"> • Mortgage or other security document over the customer's property 	<p>Government employee</p> <ul style="list-style-type: none"> • A statutory declaration from a person who has known the customer for 5 years or more • A village leader 		<ul style="list-style-type: none"> • Recent and available financial statements • A statement signed by a director setting out the nature of the business of the company, the reason for existence, the expected turnover of the business and source of funds
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SCHEDULE 3



VANUATU FINANCIAL INTELLIGENCE UNIT

SUSPICIOUS TRANSACTION REPORT (STR)

PLEASE WRITE IN BLOCK LETTERS



Person Conducting Transaction

1. Full name (title, given name and surname)
2. Date of Birth
3. Occupation, Business or principal activity
4. Business Address (physical and PO Box)
5. Residential Address (cannot be a PO Box)
6. Resident of Vanuatu
7. Non-Resident- Vanuatu contact address
8. Is this Person a signatory to an account (s) affected by this transaction

	PO Box:
	Country: Phone:
	Country: Phone:
	(Please circle the correct answer) Yes No
	(Please circle the correct answer) Yes No

9. Details of Account(s)

a). Account Title / Name:	b). Financial Institution:	Branch:
c). Account Number:	d). Account Type:	

10. How was the Identity of the person confirmed

a) ID Type:	b) ID Number:
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c) Issuer:	
11. Is a photocopy of ID documents attached? (Please circle the correct answer)	
Yes	No

Person On Whose Behalf Transaction Conducted

2. Full name (title, given name and surname)	
2. Date of Birth	
3. Occupation, Business or principal activity	
4. Business Address (physical and PO Box)	PO Box: Country: Phone:
5. Residential Address (cannot be a PO Box)	Country: Phone: (Please circle the correct answer) Yes No
6. Resident of Vanuatu	
7. Non-Resident- Vanuatu contact address	
8. Is this Person a signatory to an account (s) affected by this transaction	(Please circle the correct answer) Yes No

9. Details of Account(s)

a). Account Title / Name:	b). Financial Institution:	Branch:
c). Account Number:	d). Account Type:	

10. How was the Identity of the person confirmed

a) ID Type:	b) ID Number:
c) Issuer:	
11. Is a photocopy of ID documents attached? (Please circle the correct answer)	Yes No

PART B - TRANSACTION DETAILS

12. Transaction Type (eg. Deposit/Withdrawal, Purchase, Sale, Foreign Exchange, Telegraphic Transfer, EFTPOS, etc)	
13. Transaction Date(s)	
14. Transaction Currency	
15. Transaction Amount	
16. Drawer / Ordering Name	
17. Payee / Beneficiary Name	

Give Details of other account(s) affected by this transaction

Account Title / Name		Account Title/Name	
Account Number		Account Number	

PART E - CHECKLIST

A. Make sure that you attached the following documentation with your report (if applicable)
(Please tick each boxes below)

1. Copy of an ID (prefer passport, drivers license or Birth certificate or a photo)
2. Copy of the Voucher
3. Copy of the TT/transfer Instruction
4. Copy of dairy note reflecting any
5. copy of the account opening documents
6. copy of the AML questionnaire
7. Provide reference to previous reports made to FIU on the subject

B. Check very carefully that you have completed All sections of this report

1. Part A is completed properly
2. Part B is completed properly
3. Part C is completed properly
4. Part D is completed properly
5. Part E is checked

PART F - FINANCIAL INSTITUTION DETAILS AND PLACE OF TRANSACTION

Institution Type: (eg. Bank, Solicitor Insurance Company)	
Institution Name	
Bank Name: (if a Bank, include Bank & Branch No.)	
Address	
Telephone	
Fax	

Please forward to: The Financial Intelligence Unit
PMB 9048, Port Vila
Telephone: 23518
Facsimile: 25473
E-mail: rfay@vanuatu.gov.vu Or
vfiiu@vanuatu.gov.vu

FIU REFERENCE NUMBER

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PART G - CONFIDENTIAL - YOUR SIGNATURE AND THE SIGNATURE OF THE STAFF MEMBER CONDUCTING THE TRANSACTION

Details of Staff Member Conducting Transaction

Full Name	
Title/Position	
Signature	
Date	/ /

Details of Person Making Report

Full Name	
Title/Position	
Signature	
Date	/ /
Telephone	
Fax	

SCHEDULE 4



VANUATU FINANCIAL INTELLIGENCE UNIT

SUSPICIOUS ACTIVITY REPORT (SAR)

PLEASE WRITE IN BLOCK LETTERS



PART A - IDENTITY OF CUSTOMERS INVOLVED IN THE SUSPICIOUS ACTIVITY

Person(s) Conducting Activity

3. Full name (title, given name and surname)

2. Date of Birth

3. Occupation, Business or principal activity

4. Business Address (physical and PO Box)

5. Residential Address (cannot be a PO Box)

6. Resident of Vanuatu

7. Non-Resident- Vanuatu contact address

8. Is this Person a signatory to an account/service (s) affected by this activity

9. Details of Account(s)/Service(s)

a). Account/Service Name:	b). Financial Institution:	Branch:
c). Account/Service Number:	d). Account/Service Type:	

10. How was the identity of the person confirmed

a) ID Type:	b) ID Number:
c) Issuer:	
11. Is a photocopy of ID documents attached? (Please circle the correct answer) Yes No	

Person(s) On Whose Behalf Activity was Conducted

4. Full name (title, given name and surname)
2. Date of Birth
3. Occupation, Business or principal activity
4. Business Address (physical and PO Box)
5. Residential Address (cannot be a PO Box)
6. Resident of Vanuatu
7. Non-Resident- Vanuatu contact address
8. Is this Person a signatory to an account (s) affected by this transaction

PO Box:	
Country:	Phone:
Country:	Phone:
(Please circle the correct answer)	Yes No
(Please circle the correct answer)	Yes No

9. Details of Account(s)/Service(s)

a). Account/Service Name:	b). Financial Institution:	Branch:
c). Account/Service Number:	d). Account/Service Type:	

10. How was the Identity of the person confirmed

a) ID Type:	b) ID Number:
c) Issuer:	
11. Is a photocopy of ID documents attached? (Please circle the correct answer) Yes No	

PARITY ID NUMBER OF ACTIVITY

12. Activity Type (eg. Placement, layering, structuring etc...)
13. Activity Date(s)
14. Currency
15. Amount

Give Details of other account(s) affected by this activity

Account/Service		Account/Service Name	
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SCHEDULE 5

STATE LAW OFFICE

Vanuatu Financial Intelligence Unit

CASH TRANSACTION REPORT (CTR)

Reporting of "significant" cash transactions is required by Section 27 of the AML&CTF Act No. of 2014. Penalties exist for failure to report or to supply full and incorrect information.

PART A – IDENTITY OF PERSON CONDUCTING THE TRANSACTION

1 Full name (title, given names and surname):

Also known as:

2 Date of birth: 3 Country of Birth:

/ /

Day/Month/Year

4 Occupation, business or principal activity:

5 Business address (physical and PO Box):

PMB:

Phone:

Country:

6 Residential address (cannot be a PO Box):

Country:

Phone:

7 NON RESIDENT - Vanuatu contact address:

Country:

Phone:

8 Give details if this person is a signatory to account affected by this transaction
Account Title/Name:

Bank:

Branch:

Account Number:

9 How was the identity of this person confirmed?

ID Type:

ID Number:

Issuer:

10 Is a photocopy of ID document/s attached?

Yes No

If more than one person involved please provide same details contained in Sections 1 - 11 for each person where appropriate, and attached

PART B - DETAILS OF PERSON/ORGANISATION ON WHOSE BEHALF THE TRANSACTION WAS CONDUCTED (if applicable)

11 Full name of person/organisation:

12 Business address (physical and PO Box):

PMB:

Phone:

Country:

13 Occupation, business or principal activity:

14 Give details if this person is a signatory to transaction

account affected by this

Account Title/Name:

Bank:

Branch:

Account Number:

PART C - DETAILS OF THE TRANSACTION

15 Date of transaction:

/ /

Day/Month/Year

16 Total amount of this transaction (include cash and any other components of the transaction - If a foreign currency is involved, convert the amount to Vatu).

17 If a foreign currency was involved in this transaction, specify: (eg Australian Dollars, AUD\$ 4000 etc)

Place an 'X' in the appropriate box

Cash paid IN

Cash paid OUT

18 Type of transaction(s) involved

Transfer to another bank	
Travellers Cheques	
Foreign currency	
Bank Cheque	
Account Deposit	
Account Withdrawal	
Bank draft	
Securities	
Precious Stones/ metals/ Pearls	
Other	

19 If a cheque/bank draft/money order/telegraphic transfer/transfer of currency or purchase or sale of any security was involved in this transaction, please specify:

Drawer/Ordering Customer:

Payee/Favouree/Beneficiary:

20 If another financial institution was involved in this transaction, please specify:

Name of financial institution:

Branch:

Country:

PART D - DETAILS OF THE RECIPIENT PERSON/ORGANISATION (If applicable)

21 Full name of person/organisation:

22 Business address (physical and PO Box):

PMB:

Phone:

Country:

23 Occupation, business or principal activity:

24 Reason for transaction (eg payment for imports):

25 Details of recipient account (if not already provided):

Account Title/Name:

Bank:

Branch:

Account Number:

PART E - EXPLANATORY NOTES

26 Give details of the nature and circumstances surrounding the transaction if required.

PLEASE PRINT IN BLOCK LETTERS.

27 Is additional information attached to this report?

Yes

No

If yes, please Specify:

PART F - REPORTING FINANCIAL INSTITUTION

28 Type of Financial Institution (eg bank):

29 Name of Financial Institution (eg bank):

30 Name of branch or office where transaction was conducted:

31 Business address (physical and PO Box):

PMB:

Phone:

Country:

PART G - FINANCIAL INSTITUTIONS STATEMENT

**32 Details of authorised person:
Given Name and Surname:**

Job title:

Phone number:

Fax number:

33 This statement is made pursuant to the requirement to report "significant" cash transactions under Vanuatu laws on the grounds detailed in this report.

Signature of authorised person:

(Sign here)

Date:

34 Financial Institutions internal reference number (if applicable).

Send completed forms to:

Vanuatu FIU
PMB 9048
Port Vila
VANUATU

For assistance contact:

Financial Intelligence Unit
Phone: +(678) 23518
Fax: +(678) 25473
Email 1: kbellam@vanuatu.gov.vu

**VANUATU FINANCIAL INTELLIGENCE UNIT USE
ONLY**

Report Number	
Authorisation:	
Comments:	

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SCHEDULE 6

INTERNATIONAL FUNDS TRANSFER REPORT (IFTR)

Reporting of electronic funds transfers into or out of Vanuatu of VUV 1 million or more required by Section 28 of the AML&CTF Act No. 13 of 2014. Penalties for failure to report or supply full and correct information.

PART A - DETAILS OF THE TRANSACTION	1	<i>Initiating Office</i>	
	2	<i>Date of transaction</i>	
	3	<i>Direction of transaction</i>	
		<i>In</i>	
		<i>Out</i>	
	4	<i>Transaction Ref No</i>	
	5	Sending Institution:	
	<i>Name of Bank:</i>		
	<i>City</i>		
	<i>Country:</i>		
6	Receiving Institution:		
	<i>Name of Bank:</i>		
	<i>City:</i>		
	<i>Country:</i>		
7	Amount Involved. If a foreign Currency was involved in the transaction, specify:		
	<i>Currency:</i>		
	<i>Amount:</i>		
PART B - INVOLVED PARTY & INSTITUTION DETAILS	8	Ordering Customer/organisation	
		<i>Name:</i>	
		<i>Occupation:</i>	
		<i>Address:</i>	
		<i>PO Box:</i>	
		<i>Country:</i>	
		<i>Phone:</i>	
		Account Details:	
		<i>Account Name:</i>	
		<i>Bank:</i>	
		<i>Branch:</i>	
		<i>Account Number:</i>	
		Person who authorised Transfer:	
		<i>Title</i>	
		<i>Name:</i>	
		<i>Position:</i>	
	9	Beneficiary customer/organisation	
		<i>Name:</i>	
		<i>Occupation:</i>	
		<i>Address:</i>	
	<i>PO Box:</i>		
	<i>Country:</i>		
	<i>Phone:</i>		

	Account Details:	
	Account Title:	
	Bank:	
	Branch:	
	Account No:	
	Person identified to receive payment:	
	Title:	
	Name:	
	Position:	
	PART C - ADDITIONAL PAYMENT DETAILS	10
11		Any other information
PART D - REPORTING FINANCIAL INSTITUTIONS	12	Type of Financial Institution
	13	Name of Financial Institution
	14	Name of Branch or Office
	15	Business Address
		Postal Box
	Country	
	Phone	
PART E - FINANCIAL INSTITUTIONS STATEMENT	16	Details of authorised person
		Given name and surname
		Job title
		Phone No.
		Fax Number
	17	This statement is made pursuant to the requirement to report International Funds Transfers under Vanuatu laws on the ground as detailed in Part E.
		Signature of Authorised person
	18	Financial Institution's Internal Reference

Send completed forms to:

Vanuatu FIU
PMB 9048
Port Vila
VANUATU

For assistance contact:

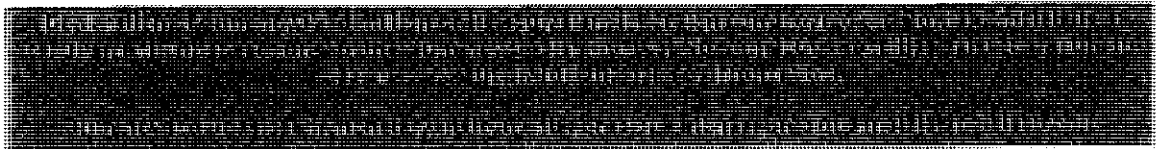
Financial Intelligence Unit
Phone: +(678) 23518
Fax: +(678) 25473
Email: kbellam@vanuatu.gov.vu

VANUATU FINANCIAL INTELLIGENCE UNIT USE ONLY

SCHEDULE 7



BORDER CURRENCY REPORT (BCR)



PART A: DETAILS OF TRAVEL

1 Are you carrying cash:

Into Vanuatu

Out of Vanuatu

2 Date of Arrival: / /
Day/Month/Year

3 Flight Number or Name of Vessel:



4 Full Name (as per passport):

Surname

Given Name

5 Date of Birth (dd/mm/yyyy):

6 Country of Birth (Place):

Country:

Place:

7 Passport Detail
Passport Number:

Date of Expiry Country of issue

8 Permanent Residential address in home country (not a postal address)

Address: Country:

Phone:

14 Occupation, Business or Principle Activity

15 Business Address (physical and postal):

16 Are you a Vanuatu Resident?

Yes

No

17 If answered No, contact details while in Vanuatu:

14 Purpose of Travel

18 Travel Itinerary – where travel commenced, where cash was obtained, where travel continues to, final destination:
e.g. Hong Kong-Nadi-Port Vila

19 Are you travelling alone?

Yes

No

20 If answered NO, please indicate name of person(s) travelling with you

Name



18 Full Name of Person or Organisation on whose behalf you are carrying the currency for

19 Business/Residential Address of person:

**20 Occupation, Business or Principle Activity of this person:
Address:**

PO Box: Country:

PART D: DETAILS OF THE CURRENCY

21 Source of the Currency:

22 Purpose of the Currency:

23 Country of the currency's source:

24 Detail of currency:

**PART E: IF NOT FOR YOURSELF, TO WHOM
ARE YOU DELIVERING THE CURRENCY**

25 Full Name of Person or Organisation receiving the currency:

26 Business/Residential Address:

27 Occupation, Business or Principle Activity:

PART F: PASSENGER DECLARATION

32 I confirm that the information in this form is true and correct to the best of my knowledge:

(Sign here)

.....
Date:

**PART C - CURRENCY VERIFICATION FORM
(Border Official Use ONLY)**

Cash

Currency	Amount	Total
e.g AUD	19,000	19,000

Monetary Instrument

Drawer	Currency	Amount
e.g. Traveller cheque	USD	20,000

Precious Metal or Stone

Type	Origin	Value
e.g. Gold Trophy	Australia	21 million Valu

Send completed forms to:

**Vanuatu FIU
PMB 9048
Port Vila
VANUATU**

For assistance contact:

**Financial Intelligence Unit
Phone: +(678) 23518
Fax: +(678) 25473
Email 1: kbellam@vanuatu.gov.vu**

**VANUATU FINANCIAL INTELLIGENCE UNIT USE
ONLY**

Report Number	
Authorisation:	

Comments:	



REPUBLIC OF VANUATU

BROADCASTING AND TELEVISION ACT [CAP 214]

Instrument of Removal – Chairman, Deputy Chairman and Member of the Vanuatu Broadcasting and Television Corporation Order No. 123 of 2014

In exercise of the powers conferred on me by paragraph 3(7)(b) of the Broadcasting and Television Act [CAP 214], I, the Honourable BOB LOUGHMAN, Acting Prime Minister, make the following Order:

1 Removal


The following persons are removed as Chairman, Deputy Chairman and member of the Corporation:

- (a) Harris Iaris Naunun as Chairman; and
- (b) Lorry Tom Marango as Deputy Chairman; and
- (c) Pita Sali as member.

2 Commencement

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

Made at Port Vila this 27 day of June, 2014.


Honourable BOB LOUGHMAN
Acting Prime Minister





REPUBLIC OF VANUATU

MUNICIPALITIES ACT [CAP 126]

Port Vila Municipal Election Dispute Committee (Amendment) Order No. 124 of 2014

In exercise of the powers conferred on me by subclause 33(1) of the Municipal Council Elections Regulation, I, the Honourable CHARLOT SALWAI TABIMASMAS, Minister of Internal Affairs, make the following Order.


1 Amendments

Port Vila Municipal Election Dispute Committee Order No.99 of 2014 is amended as set out in the Schedule.

2 Commencement

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

Made at Port Vila this 26TH day of JUNE, 2014.


Honourable CHARLOT SALWAI TABIMASMAS
Minister of Internal Affairs



SCHEDULE

**AMENDMENTS OF THE PORT VILA ELECTION
DISPUTE COMMITTEE ORDER NO. 99 OF 2014**

1 Clause 4

Delete "Monday 30th June 2014", substitute "Friday 18th July, 2014"



REPUBLIC OF VANUATU

CONSTITUTION OF THE REPUBLIC OF VANUATU

Instrument of Transfer of Principal Executive Officer of Ministry of Health Order No.125 of 2014

In exercise of the powers conferred on me by Article 58(2) of the Constitution of the Republic of Vanuatu, I, the Honourable JOE NATUMAN, Prime Minister, make the following Order.


1 Transfer of Principal Executive Officer of Ministry of Health to the Ministry of Prime Minister

Gideon MAEL is transferred from being the Principal Executive Officer to the Ministry of Health to being the Senior Policy Analyst to the Health Sector within the Department of Strategic Policy and Planning in the Prime Minister's Office

2 Commencement

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

Made at Port Vila this 24th day of June, 2014.


Honourable JOE NATUMAN
Prime Minister

