

REPUBLIC OF VANUATU



BILL FOR

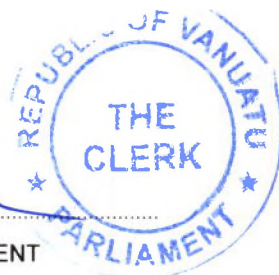
THE STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT NO. 5 OF 2019

AUTHENTICATION BY CLERK

This copy has been compared by me with the Bill which has been passed by Parliament and found by me to be a true copy of the bill.

Signed :

CLERK TO PARLIAMENT



20th JUNE 2019

Thereby Assent

Signature :

PRÉSIDENT



24th JUNE 2019



REPUBLIC OF VANUATU

**STATUTE LAW (MISCELLANEOUS PROVISIONS)
ACT NO. 5 OF 2019**

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REPUBLIC OF VANUATU

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT NO. 5 OF 2019

An Act to provide for amendments to certain Acts.

Be it enacted by the President and Parliament as follows-

1 Amendment

The following Acts are amended as set out in the Schedule:

- (a) Casino Control Act [CAP 223];
- (b) Immigration Act No. 17 of 2010;
- (c) International Companies Act [CAP 222];
- (d) Maritime Sector Regulatory Act No. 26 of 2016;
- (e) Nurses Act [CAP 262];
- (f) Oaths Act [CAP 37];
- (g) Partnership Act [CAP 92];
- (h) Passports Act No. 20 of 2009;
- (i) Public Land Transport Act No. 4 of 2015;
- (j) Shipping Act [CAP 53];
- (k) Tax Administration Act No. 37 of 2018;
- (l) Teaching Service Act No. 38 of 2013;
- (m) Trademarks Act No. 1 of 2003.

2 Repeal of Act

- (1) This Act is repealed on the day following the day on which all provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 11 of the Interpretation Act [CAP 132], affect any amendments made by this Act.

3 Commencement

- (1) Subject to subsection (2), this Act commences on the day on which it is published in the Gazette.
- (2) Amendments in Item 11 relating to the Tax Administration Act No. 37 of 2018, commences on a date to be prescribed by Order by the Minister of Finance and Economic Management.

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1 CASINO CONTROL ACT [CAP 223]

After section 19

Insert

“19A Appointment of person to assist officers

- (1) The Director may, in writing, with the prior approval of the Council of Ministers, appoint a person to assist an officer to perform any functions or exercise any powers that may be performed or exercised by the officer under this Act.
- (2) A person appointed under subsection (1) is subject to the direction of the Director in performing any functions or exercising any powers under this Act.
- (3) The terms and conditions of the appointment are to be determined by the Director.”

2 IMMIGRATION ACT NO. 17 OF 2010

(a) After section 49

Insert

“49A Automatic cancellation of residence visa

A residence visa granted to a person under this Act is automatically cancelled if:

- (a) the work permit granted to the person under the Labour (Work Permits) Act [CAP 187] has been revoked by the Commissioner of Labour; and
- (b) the person has been unsuccessful in his or her appeal under the Labour (Work Permits) Act [CAP 187].”

(b) Paragraph 53(1)(da)

Repeal the paragraph.

(c) After paragraph 53A(1)(ab)

Insert

“(ac) has breached any condition of his or her visa on three different occasions;
or”

3 INTERNATIONAL COMPANIES ACT [CAP 222]

Subsection 112(1)

Delete “30th June”, substitute “the anniversary date of registration”

**4 MARITIME SECTOR REGULATORY ACT NO. 26 OF
2016**

(a) Paragraph 5(2)(a)

Delete “Chairperson”, substitute “Commissioner”

(b) After paragraph 45(1)(a)

Insert

“(aa) a Regulation; or”

(c) Subsection 47(1)

After “this Act”, insert “or the Shipping Act [CAP 53]”

5 NURSES ACT [CAP 262]

(a) Subsection 13(1)

After “Council” (second occurring), insert “for a period of at least 4 years”

(b) Subsection 13(3)

Repeal the subsection, substitute

“(3) A person appointed as Registrar under subsection (1) may be reappointed.”

6 OATHS ACT [CAP 37]

After subsection 5(2A)

Insert

“(2B) A member of Parliament referred to in subsection (2A) is to sign the Roll of Members of Parliament and take and subscribe to the oath of allegiance,

simultaneously in the office of the Speaker of Parliament within 2 weeks after the declaration of the election results.

- (2C) The signing of the Roll is to be facilitated by the Clerk of Parliament and witnessed by the Speaker of Parliament.”

7 PARTNERSHIP ACT [CAP 92]

(a) After section 1

Insert

1A Definition of Partnership

- (1) Partnership is the relation which subsists between persons carrying on a business (which expression must include every trade, occupation or profession) in common with a view of profit, but the relationship between members of any company or association which is:

- (a) registered as a company under the Companies Act No. 25 of 2012 or any other Act for the time being in force relating to the registration of joint stock companies; or
- (b) formed or incorporated by any Act,

is not a partnership within the meaning of this Part.

- (2) A partnership is:

- (a) a body corporate with perpetual succession; and
- (b) to have a common seal; and
- (c) capable of suing and being sued.

1B Administration of the Act

This Act is to be administered by the Commission.

1C Application for registration

- (1) An application to the registrar must:
 - (a) be in the prescribed form; and
 - (b) include:
 - (i) details of each key person; and
 - (ii) details as required by the registrar of the source of funds used to pay the capital of the applicant.
- (2) The application must be accompanied by a copy of the statement or other document setting up the partnership.
- (3) In addition to subsection (1), the registrar may require an applicant to provide any further information as he or she considers necessary to enable an application for registration to be determined.

1D Registration

- (1) A partnership must be registered with the Commission.
- (2) The registrar may register a partnership if he or she is satisfied:
 - (a) that the application for the registration complies with section 1C; and
 - (b) that the proposed by-laws of the partnership are not contrary to this Act or any other Act; and
 - (c) of the source of funds used to pay the capital of the partnership; and
 - (d) that the key persons of the partnership are fit and proper persons.
- (3) In assessing whether or not a key person of the partnership satisfies fit and proper criteria, the registrar must take into consideration the following matters:

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- (a) whether the person has been convicted of an offence or is subject to any criminal proceedings; and
- (b) whether the person is listed on a United Nations Financial Sanctions list, or a financial sanctions list under the United Nations Financial Sanctions Act No. 6 of 2017 or a financial sanctions list under the law of any jurisdiction; and
- (c) any other fit and proper criteria prescribed by the Regulations.

1E Partnership to give notice of certain changes to registrar

- (1) A partnership must give the registrar written notice of a change in:
- (a) a key person of the partnership; or
 - (b) the circumstances of a key person of the partnership that may affect whether he or she meets fit and proper criteria; or
 - (c) the by-laws or policies relating to the source of funds used to pay the capital of the partnership,
- within 14 days after the change occurs.
- (2) If a partnership fails to comply with subsection (1):
- (a) the partnership commits an offence punishable upon conviction by a fine not exceeding VT 125 million; and
 - (b) the registrar may by notice in writing to the partnership, cancel the registration of the partnership.
- (3) If a partnership does provide the information as required under subsection (1), and the registrar is not satisfied:
- (a) that the key persons of the partnership are fit and proper persons having regard to the matters referred to in subsection 1C(3); or
 - (b) of the by-laws or policies relating to the source of funds used to pay the capital of the partnership,

the registrar may by notice in writing to the partnership, cancel the registration of the partnership.

- (4) Subsections 1H(2), (3) and (4) apply to the cancellation of the registration of the partnership under this section.

1F Registrar may require information and documents relating to partnership

- (1) Subject to subsection (2), the registrar may, by notice in writing to a partnership, require the partnership to provide the registrar with information or documents, or both, specified in the notice within the period set out in the notice.
- (2) The information or documents must relate to:
- (a) the partnership's integrity, competence, financial standing or organisation; and
 - (b) the partnership's compliance with this Act or the Regulations.
- (3) If the partnership:
- (a) refuses or fails to give the registrar the information or documents required by the registrar; or
 - (b) knowingly or recklessly gives the registrar information or documents that are false or misleading,

the partnership commits an offence punishable upon conviction by a fine not exceeding VT 75 million.

1G Registrar may request information and documents

The registrar may request information or documents, or both, from any or all of the following:

- (a) the Financial Intelligence Unit;

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- (b) a supervisor within the meaning of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014;
- (c) the Sanctions Secretariat;
- (d) a law enforcement agency;
- (e) a domestic regulatory authority;
- (f) a foreign government agency that carries out functions corresponding or similar to the functions carried out by a body or agency referred to in paragraph (a), (b), (c), (d) or (e).

1H Cancellation of registration of partnership

- (1) The registrar may, in writing, cancel the registration of a partnership:
 - (a) if the registrar is satisfied that the registration was obtained by fraud or mistake; or
 - (b) if the partnership has ceased to exist; or
 - (c) if the partnership has contravened a provision of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014 and that contravention has resulted in the use of an enforcement measure under Part 10AA of that Act; or
 - (d) if the fit and proper criteria are not met as required under this Act or as prescribed by the rules; or
 - (e) if the registrar is not satisfied of the by-laws or policies relating to the source of funds used to pay the capital of the partnership; or
 - (f) at the request of the members of the partnership.
- (2) Before cancelling the registration of a partnership, the registrar must give written notice to the partnership that it proposes to cancel the registration and the reasons for the cancellation.

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- (3) A partnership may within 14 days after receiving a notice under subsection (2), give the registrar written reasons why the registration of the partnership should not be cancelled.
- (4) The registrar may cancel the registration of a partnership if:
- (a) the partnership does not give the registrar reasons under subsection (3); or
 - (b) having taking into account the partnership's reasons, the registrar is of the opinion that the partnership has failed to show good cause why the registration should not be cancelled.
- (5) If the registrar makes an order for the cancellation of the registration of a partnership under this section, he or she may make such further order as he or she thinks fit for the custody of the books and documents and the protection of the assets of the partnership until the order is cancelled."

(b) Part 1A

Repeal the Part.

8 PASSPORTS ACT NO. 20 OF 2009

Subsections 6(1) and (2)

Delete "5", substitute "10"

9 PUBLIC LAND TRANSPORT ACT NO. 4 OF 2015

(a) Section 6

Repeal the section, substitute

- "(1) The Authority has the power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions under this Act or any other Act.
- (2) Without limiting subsection (1), the Authority may prescribe fines and penalties for any breach of prescribed standards, fare levy and any other matter which the Authority is empowered to prescribe under this Act."

(b) Paragraph 44(2)(r)

Delete ".", substitute "; or

- (s) prescribe fines and penalties for any breach of Regulations made under this Act; or
- (t) regulate the specific functions of each category of public land transport; or
- (u) establish standard colours for specific categories of public land transport.”

10 SHIPPING ACT [CAP 53]

Subsection 28A (3)

Supprimer “un inspecteur attitre de brevets ”, remplacer “Un agent d’octroi de brevets”

Note: No amendment required for English text.

11 TAX ADMINISTRATION ACT NO. 37 OF 2018

(a) Subsection 41(2)

Delete “,”, substitute “.”

(b) Subsection 64(2)

Delete “,”, substitute “.”

(c) Subsection 77(4)

Delete “,” (first occurring)

(d) Subsections 85(3) and (4)

Delete “8(3)”, substitute “8(4)”

(e) Subsection 85(5)

Delete “8(4)”, substitute “8(5)”

(f) Subsection 92(4)

Delete “57(2)”, substitute “56(2)”

(g) Subsection 112(1)

Delete “1 April 2019”, substitute “1 January 2020”

(h) Schedule 1 - Paragraph 4

Delete "An assessment", substitute "A return"

(i) Schedule 2 - Paragraph 3

Delete "Customs legislation", substitute "Customs Act No. 7 of 2013"

12 TEACHING SERVICE ACT NO. 38 OF 2013

Section 6

Repeal the section, substitute

"6 Term of office of the Chairperson and members of the Commission

- (1) Subject to subsection (2), the Chairperson and the members of the Commission are to be appointed for a period of 4 years and may be reappointed for another term only.
- (2) The Chairperson or a member is no longer qualified to be the Chairperson or a member of the Commission as the case may be if he or she:
- (a) has been convicted of a criminal offence which has a penalty of 12 months or more imprisonment; or
 - (b) has become bankrupt; or
 - (c) is unable or unfit to discharge his or her functions; or
 - (d) has been absent from two consecutive meetings of the Commission;
 - (i) in case of the Chairperson - without the consent of the majority of members; and
 - (ii) in case of a member - without the consent of the Chairperson.
- (3) The Chairperson or a member may resign by notice in writing to the Minister.
- (4) This section does not apply to the Executive Officer of the Vanuatu National Training Council.

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- (5) To avoid doubt in relation to the term of office of the Chairperson and a member of the Commission who was appointed before the commencement of this Act, the Chairperson and the members are to continue to serve in office for the remaining term of their appointment.”

13 TRADEMARKS ACT NO. 1 OF 2003

After subsection 105 (1)

Insert

- “(1A) Without limiting subsection (1), the Regulations may prescribe the requirements for the annual maintenance fees for registration of trademarks.”