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CHAPTER 66

IMMIGRATION

JR 18 of 1971
JR 1 of 1972
JR 7 of 1972
JR 21 of 1980
Act 8 of 1984
Act 14 of 1990
Act 15 of 1995
Act 10 of 1997
Act 13 of 1998
Act 3 of 2004
Act 22 of 2005

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IMMIGRATION

To regulate and control immigration into Vanuatu.

PART 1 – PRELIMINARY PROVISIONS

1. Interpretation

In this Act, unless the context otherwise requires –

"application fee" means the fee payable under section 9D;

"approval certificate" means an approval certificate issued by the Vanuatu Investment Promotion Authority;

"child" means a legitimate or legitimated child or a stepchild or in relation to its mother an illegitimate child and includes an adopted child, having been adopted in a manner recognised by law;

"dependant", in relation to a person, means any of the following –

(a) a member of the person's family;

(b) a child of the person who is over 18 but who is totally dependant on the person;

"entry" with its cognate expressions and grammatical variations means –

(a) in the case of a person arriving by sea, disembarking in Vanuatu from the vessel in which he arrives;

(b) in the case of a person arriving by air at an airport designated in pursuance of the provisions of the Civil Aviation Act, Cap. 159, leaving the precincts of such airport; and

(c) in the case of a person arriving by air at any place other than such an authorised airport, landing in Vanuatu:

Provided that it shall not include an entry –

(i) made for the purpose of complying with this Act;

(ii) expressly or impliedly sanctioned by an immigration officer for the purpose of any enquiry under the provisions of this Act; or

(iii) caused solely by stress of weather or the condition of a ship or aircraft, if all such measures as are reasonably practicable are taken forthwith to notify such entry to the Principal Immigration Officer;

"family" means husband or wife, and children who are under 18 years of age;

"foreign investor" has the same meaning as in the Vanuatu Foreign Investment Promotion Act [CAP. 248];

"investment proposal" has the same meaning as in the Vanuatu Foreign Investment Promotion Act [CAP. 248];

"member of a crew" means any person employed in the working or service of a ship;

"Minister" means the Minister for the time being responsible for immigration or any Minister acting on his behalf;

"non-citizen" means a person who is not a citizen of Vanuatu;

"passport" includes any official travel document intended to serve in the place of a passport;

"permit" includes any kind of permit issued under the provisions of this Act and includes an exemption stamped on a passport under section 12(7);

"Principal Immigration Officer" includes any immigration officer to whom powers are delegated in accordance with section 3(2) and any police officer of the rank of sergeant and above;

"prohibited immigrant" means a prohibited immigrant as defined by section 15;

"removal order" means an order under section 17;

"residence" with its cognate expressions and grammatical variations means residence in Vanuatu which is not unlawful under this Act;

"residence permit" means a permit that entitles the holder to enter and reside in Vanuatu for the period stated in the permit;

"seaman" means an officer or member of the crew of a ship;

"serious offence" means a criminal offence, other than a traffic-related offence that does not cause bodily injury to a person.

"ship" except in relation to paragraphs (b) and (d) of subsection (1) of section 10 includes aircraft and the expression "master of a ship" includes (except in the proviso to subsection (2) of section 4) the commander of an aircraft;

"Vanuatu" means the Republic of Vanuatu;

"Vanuatu Investment Promotion Authority" means the Board established by the Vanuatu Foreign Investment Promotion Act [CAP. 248];

"visitor" means a person in Vanuatu for an intended stay of any period not exceeding 4 months.

2. Application

This Act shall apply to the entry into, or the residence or continued residence in Vanuatu of all non-citizens and all matters connected therewith and the administration of this Act to and in respect of such persons shall be the responsibility of the Minister or the Principal Immigration Officer.

PART 2 – POWERS OF IMMIGRATION OFFICERS

3. Principal Immigration Officer and other officers

(1) There shall be a Principal Immigration Officer and such other immigration officers as may be necessary.

(2) The Principal Immigration Officer may delegate in writing all or any of his powers, functions or duties under this Act either generally or in any area in Vanuatu, or for such periods or purposes as he may specify, to any immigration officer, and may at any time revoke or vary any such delegation.

(3) The Minister may from time to time give to the Principal Immigration Officer directions of a general nature, not inconsistent with the provisions of this Act, as to the exercise of any powers, discretions or functions or the performance of any duties under this Act, and the Principal Immigration Officer and other immigration officers shall comply with any such directions.

4. Powers of Principal Immigration Officer

(1) For the purpose of exercising his powers and functions and carrying out his duties under this Act the Principal Immigration Officer may –

(a) without search warrant, enter upon or into and search any ship or vehicle in Vanuatu;

(b) interrogate any person who desires to enter Vanuatu, or any person whom he has reasonable grounds for believing to be a prohibited immigrant, or any person applying for extension of a permit or for exemption, or the master of any ship whom he reasonably believes can give material information regarding any such person as aforesaid, and may require any such person to produce such documents in his possession as may be necessary to enable the Principal Immigration Officer to carry out his duties under this Act;

(c) require any person who desires to enter or leave Vanuatu to make and sign the form prescribed under this Act;

(d) require any person who desires to enter Vanuatu to submit to be examined by a Government medical officer;

(e) require a deposit or bond or other security to be made or given in the form prescribed under this Act in respect of any person granted a permit and if any person who enters Vanuatu by virtue of such permit contravenes or fails to comply with any of the terms and conditions of the permit, the Principal Immigration Officer may, without prejudice to proceedings in respect of any offence thereby committed, forfeit any such deposit or sue and recover the amount secured by any such bond or other security; and any sum so forfeited or recovered shall be paid into the Treasury.

(2) If the Principal Immigration Officer has, or any police officer has, reasonable cause to suspect that any person has committed an offence against this Act, or that the presence of any person in Vanuatu is unlawful, and if it appears to be necessary to arrest such person immediately, he may arrest such person without a warrant:

Provided that where the person arrested is a person whom the Principal Immigration Officer, or the police officer, has reasonable cause to suspect is a prohibited immigrant and such person is a passenger or seaman on a ship, he may, if he consents, be handed over to the custody of the master of the ship until its departure from Vanuatu.

(3) Any person who –

(a) refuses or fails to answer fully and truthfully any question or inquiry put to him in the course of interrogation under paragraph (b) of subsection (1) of this section; or

(b) gives any answer which he knows or has reasonable cause to believe to be false or misleading to any such question or inquiry as aforesaid; or

(c) when required to produce any document under paragraph (b) of subsection (1) of this section, refuses or fails to produce within a reasonable time any such document which it is in his power to produce, or produces any document which he knows or has reasonable cause to believe to be false or misleading,

shall be guilty of an offence against this Act.

(4) Notwithstanding any rule of law to the contrary, all answers to questions lawfully put in interrogation and all documents produced under paragraph (b) of subsection (1) of this section, shall be admissible in evidence, in all proceedings under or relating to any matter arising under or connected with this Act.

PART 3 – ENTRY INTO VANUATU

5. Visas and permits

(1) Any non-citizen not being a resident of Vanuatu who wishes to enter Vanuatu shall require a visa unless he is a citizen of a country exempted with or without limitations or conditions from visa requirements by order of the Minister.

(2) Any non-citizen not being a resident of Vanuatu who wishes to take up residence in Vanuatu shall apply for a residence permit.

(3) *(Repealed)*

(4) Any non-citizen who wishes to enter Vanuatu as a visitor shall produce on demand by the Principal Immigration Officer at the place of entry or at any time evidence, satisfactory to the Principal Immigration Officer, of onward passage arrangements to a country which he will be able to enter.

6. Payment of deposit on or before entering Vanuatu

The Principal Immigration Officer may require any non-citizen on or prior to entering Vanuatu to deposit a sum with the Government which in the opinion of the Principal Immigration Officer, shall be sufficient to cover the cost of the repatriation of that person and those of his dependants accompanying him.

7. Deposit not to confer right of entry or residence

For the avoidance of doubt, it is hereby declared that the due compliance by any person with the requirements of section 6 shall not affect the exercise of any power or discretion conferred by this Act upon the Minister or the Principal Immigration Officer as to entry into, residence or continued residence in Vanuatu of such person.

8. Refund of deposit

Any sum deposited with the Government under the provisions of section 6 shall be refunded together with interest at the rate of 5 per cent per annum –

(a) at the expiration of 7 years from the date of deposit or such longer period as the Minister may in his discretion decide;

(b) upon the permanent departure from Vanuatu of the depositor and his dependants (if any);

(c) in the event of the death of the depositor, forthwith to his estate.

9. Exemptions from sections 5, 6, 7 and 8

Sections 5, 6, 7 and 8 shall not apply to –

(a) persons employed by the Government of Vanuatu;

(b) persons seconded to the Government of Vanuatu;

(c) members of diplomatic missions in Vanuatu;

(d) persons visiting Vanuatu and leaving on the same ship or aircraft;

(e) the families of persons referred to in the foregoing paragraphs.

9A. Entitlement to residence permits

(1) A foreign investor who has received an approval certificate from the Vanuatu Investment Promotion Authority for an investment proposal is entitled to be issued with the residence permit specified in the certificate.

(2) If a foreign investor –

(a) produces an approval certificate to the Principal Immigration Officer, and

(b) gives the Principal Immigration Officer;

(i) a statutory declaration, in the form in Schedule 2, signed by each person for whom a residence permit is sought; and

(ii) a completed application form for each person for whom a residence permit is sought; and

(c) pays the application fee and any bond required under section 6;

the Principal Immigration Officer must issue to the investor the number of residence permits specified in the certificate, for the period specified in the certificate.

9B. Issue of residence permits specified in approval certificate

(1) The Principal Immigration Officer must issue the residence permits within 5 working days after the foreign investor complies with subsection 9A(2).

(2) Each residence permit remains in force for the period stated in the permit. This must be the same as the period in the approval certificate.

9C. Replacement residence permit

(1) If during the period of a residence permit issued under section 9A (the "original permit") the person named in the permit leaves Vanuatu –

(a) the foreign investor may apply to the Principal Immigration Officer for a replacement residence permit; and

(b) if the Principal Immigration Officer receives –

(i) a statutory declaration in the form in Schedule 2 by the person named in the application; and

(ii) payment of the application fee and any bond required under section 6;

the Principal Immigration Officer must issue a residence permit (a "replacement permit") for the person named in the application.

(2) A replacement permit –

(a) is in force for the remainder of the period of the original permit; and

(b) is issued subject to the same conditions to which the original residence permit was subject.

9D. Dependants

If the Principal Immigration Officer issues a residence permit to a person under section 9A or 9C –

(a) the dependants of the person are entitled to a residence permit; and

(b) if a dependant of the person;

(i) applies for a residence permit; and

(ii) being over the age of 18, gives the Principal Immigration Officer a statutory declaration in the form in Schedule 2; and

(iii) pays the application fee and any bond payable under section 6;

the Principal Immigration Officer must issue the permit.

9E. Refusal of residence permit

The Principal Immigration Officer may refuse to issue a residence permit under section 9A, 9C or 9D if he or she has, during the previous 5 years –

(a) refused to issue a residence permit to the applicant or a dependant of the applicant; or

(b) cancelled a residence permit issued to the applicant or a dependant of the applicant.

9F. Serious offences

(1) If –

(a) a person has been convicted of a serious offence within the last 10 years; and

(b) the person discloses the offence (the "disclosed offence") in the declaration made under paragraph 9B(2)(b), 9C(1)(b) or 9D(b); and

(c) a residence permit is issued to the person under section 9A, 9C or 9D;

the disclosed offence cannot be used as grounds for –

(d) cancelling the residence permit; or

(e) making a removal order against the person.

(2) However, if –

(a) the person has been convicted of a serious offence during the last 10 years; and

(b) the person does not disclose the serious offence in the declaration; and

(c) a residence permit is issued to the person under section 9A, 9C, or 9D;

the offence can be used as grounds for –

(d) cancelling the residence permit; or

(e) making a removal order against the person.

10. Duties of masters of ships and passengers

(1) The master of every ship arriving in Vanuatu from some place outside Vanuatu shall–

(a) deliver to the Principal Immigration Officer a complete list in duplicate of all passengers and seamen on the ship;

(b) not permit any person to disembark until disembarkation has been authorised by the Principal Immigration Officer;

(c) inform the Principal Immigration Officer if he knows or has reasonable cause for believing any person to be a prohibited immigrant, and prevent such person from disembarking unless authorised by the Principal Immigration Officer;

(d) prevent, with such reasonable force as may be necessary, the disembarkation of any person –

(i) who has been given into his custody under the proviso to subsection (2) of section 4; or

(ii) in respect of whom to his knowledge a removal order made under section 17 is in force; or

(iii) in respect of whom he has been notified by the Principal Immigration Officer in the form prescribed under this Act that such person is prohibited from landing in Vanuatu.

(2) Every person entering Vanuatu by sea or air from any place outside Vanuatu shall appear before the Principal Immigration Officer at such time and place as the Principal Immigration Officer may direct and shall furnish him with such information in such manner as he may require or as may be prescribed.

(3) If any master of a ship arriving in Vanuatu contravenes or fails to comply with any of the provisions of paragraphs (a), (b), (c) or (d) of subsection (1) of this section, or furnishes a list of passengers and seamen which he knows or has reasonable cause to believe to be false or misleading, he shall be guilty of an offence against this Act, and if the offence is failure to comply with the provisions of paragraph (b) or paragraph (d) the owner of the ship and any agent of such owner in Vanuatu shall also be guilty of the like offence.

11. Control of entry into Vanuatu

(1) No person shall enter Vanuatu from any place outside unless –

(a) he is in possession of a valid visa lawfully issued to him except if he is a citizen of a country exempted under section 5(1); and

(b) he is in possession of a valid permit lawfully issued to him except if he is exempted under section 12.

(2) Subject to the provisions of this Act no person shall remain in Vanuatu after the expiry or cancellation of a permit.

12. Persons entitled to enter without a permit

(1) Subject to this section, a person who satisfies the Principal Immigration Officer that he comes into any of the following categories shall be entitled to enter Vanuatu without having obtained a permit under this Act, namely –

(a) any person granted exemption by the Minister;

(b) any person employed by the Government of Vanuatu;

(c) any member of a diplomatic mission based in Vanuatu.

(2) The Minister may declare that, subject to such terms and conditions as he may specify, any person or class or group of persons may enter Vanuatu without a permit.

(3) The Principal Immigration Officer may by notice exempt any seaman or class of seamen from the requirement to obtain a permit to enter Vanuatu, subject to such terms and conditions as he may specify, and may in like manner at any time withdraw any such exemption either generally or in relation to any particular seaman or seamen.

(4) For the avoidance of doubt, it is hereby declared that the presence of any person within Vanuatu under or in pursuance of a permit, exemption or other authority which was obtained by, or was issued, granted or conferred as a result or by reason of fraud, misrepresentation, concealment or non-disclosure (whether intentional or not), of any material fact or circumstance, is not lawful residence for the purpose of this section.

(5) The burden of proof that any person is a person to whom this section applies shall lie upon that person.

(6) (a) Where any person referred to in subsection (1) of this section or who, under the provisions of any law controlling immigration in force prior to the commencement of this Act was entitled to enter Vanuatu without a permit, ceases to hold or enjoy the employment, appointment, status or privileges which so entitled him, he shall, for the purpose of this Act be deemed to be a person seeking to enter Vanuatu with effect from the date when he ceases to hold such employment or appointment or enjoy such status or privileges. If on the expiry of 3 months from such date, he shall not have been granted a permit under this Act, his presence and the presence of his family and dependants in Vanuatu shall thereupon become unlawful:

Provided that this paragraph shall not apply to –

(i) any dependant or member of the family of a person as aforesaid, if such dependant or member is in possession of a valid permit lawfully issued to him under this Act or is entitled to enter Vanuatu without a permit under paragraph (a) of subsection (1) of this section, or

(ii) a person who at the time of ceasing to hold or enjoy the employment, appointment, status or privileges which entitled him to enter Vanuatu without a permit is also entitled to enter Vanuatu without a permit, under paragraph (a) of subsection (1) of this section.

(b) When any person contravenes or fails to comply with any of the terms and conditions of a declaration under subsection (2) or a notice under subsection (3) of this section, as the case may be, enabling him to enter Vanuatu, or when his exemption from the requirement to obtain a permit is cancelled under the said subsection (3), without prejudice to any offence thereby committed or penalty thereby incurred, his presence in Vanuatu shall forthwith become unlawful.

(7) The Minister may declare a person to be exempt from the entry formalities required by this Act.

13. Permit to enter and reside

(1) The Principal Immigration Officer may upon application being made in the form prescribed under this Act issue a permit in the form prescribed under this Act authorising any person to enter and reside in Vanuatu, upon such conditions as the Principal Immigration Officer may think fit.

(1A) Application for the renewal of a residence permit must be made at least 30 days before the permit is due to expire.

(2) The Principal Immigration Officer may in his discretion extend a permit issued under subsection (1) of this section, but shall not grant or extend a permit so that the holder becomes entitled to enter Vanuatu without a permit under paragraph (a) of subsection (1) of section 12 unless so directed by the Minister.

(3) Notwithstanding any other provision of this Act but subject to subsection (4) the Principal Immigration Officer may cancel a permit if –

(a) he is satisfied that the holder of the permit made a false declaration in respect of the particulars required when applying for the permit; or

(b) the holder of the permit is convicted of an offence carrying liability to a sentence of imprisonment whether or not as an alternative to a fine.

(4) Before cancelling a permit, the Principal Immigration Officer must give the person notice in writing –

(a) that the Principal Immigration Officer proposes to cancel the permit; and

(b) the reasons why the Principal Immigration Officer proposes to cancel the permit; and

(c) that the person may, within one month from the date of the notice, make written representations to the Principal Immigration Officer stating why the permit should not be cancelled.

(5) The Principal Immigration Officer must consider the representations before cancelling the permit.

(6) If the Principal Immigration Officer cancels a permit, the Principal Immigration Officer must –

(a) record the decision in writing and the reasons for cancelling the permit; and

(b) give a copy of the decision and the reasons –

(i) to the person; and

(ii) if the person was issued with a permit under section 9A, 9C or 9D, to the Vanuatu Investment Promotion Authority;

within 48 hours of making the decision.

14. Visitor's permit

(1) The Principal Immigration Officer may issue a visitor's permit, subject to such conditions as may be specified therein, to a visitor if he is satisfied that the visitor has a ticket or other means of travelling from Vanuatu to some other country which he will be able to enter.

(2) A visitor's permit shall, subject to the provisions of this Act, entitle a visitor to remain in Vanuatu for a period or periods in the aggregate not exceeding 4 months in any period of 12 months.

(3) The Principal Immigration Officer may cancel a visitor's permit if he is satisfied that the visitor –

(a) is not a person to whom a visitor's permit ought to have been issued;

(b) has become a prohibited immigrant;

(c) has become incapable of supporting himself or his dependants;

(d) has behaved in a manner prejudicial to the peace and good order of Vanuatu;

(e) is in breach of any of the conditions of his permit; or

(f) has been convicted of any offence.

14A. Student's permit

(1) The Principal Immigration Officer may upon application being made in the prescribed form issue a student's permit, subject to such conditions as are referred to in subsection (4) and as may be prescribed, to a person authorizing that person to enter and undertake education or training in Vanuatu.

(2) Any person granted a student permit under this section must have in his possession –

(a) written evidence acceptable to the Principal Immigration Officer that he has been accepted by a recognized teaching or training institution in Vanuatu to undertake study or training at that institution;

(b) a valid passport;

(c) an air ticket or other means of travelling from Vanuatu to some other country acceptable to the Principal Immigration Officer which he will be able to enter.

(3) A student's permit shall, subject to the provisions or this Act, entitle a person to stay in Vanuatu for the purposes of study for such period as the Principal Immigration Officer thinks fit.

(4) A student's permit shall be subject to the conditions that the student does not during his stay in Vanuatu –

(a) take up employment except as part of his education, apprenticeship, or technical instruction, except with the prior approval of the Principal Immigration Officer;

(b) behave in a manner that is prejudicial to peace, good order, good government or public morality in Vanuatu,

and subject to such other conditions as may be prescribed.

(5) The Principal Immigration Officer may cancel a student's permit if he is satisfied that the person to whom it was issued –

(a) is not a person to whom a student's permit should have been issued;

(b) has become a prohibited immigrant;

(c) has become incapable of supporting himself or his dependants;

(d) has behaved in a manner prejudicial to the peace, good order, good government or public morality of Vanuatu;

(e) is in breach of any conditions of his permit, or

(f) has been convicted of any offence.

(6) A permit issued under this section may be extended for such periods as the Principal Immigration Officer thinks fit.

15. Prohibited immigrants

(1) Any person who –

(a) is not a person entitled to enter Vanuatu without a permit under the provisions of subsection (1) of section 12; and

(b) is a member of any of the prohibited classes as defined in subsection (2) of this section,

shall be a prohibited immigrant and save as otherwise hereinafter expressly provided his presence in Vanuatu shall be unlawful, notwithstanding any permit he may hold.

(2) The following persons are members of the prohibited classes –

(a) any person who, not being exempt, is not the holder of a valid permit issued or deemed to have been issued under this Act;

(b) any person who at the time of entry into or residence in Vanuatu is unable to show that he has the means of supporting himself and his family and dependants or that he has definite employment awaiting him or who is likely to become a pauper or a charge on the public;

(c) any person –

(i) who refuses to submit to an examination by a Government medical officer after being required to do so under paragraph (d) of section 4;

(ii) who at the time of his entry into Vanuatu is certified by a Government medical officer to be suffering from a contagious or infectious disease which makes his presence in Vanuatu dangerous to the community; or

(iii) in respect of whom at the time of his entry into Vanuatu a Government medical officer certifies that he is suffering from any mental disorder and that his presence in Vanuatu would be a danger to the community;

(d) any person who has been convicted by a court outside Vanuatu of an offence in respect of which he has been sentenced to imprisonment for a term of 6 months or more:

Provided that the Principal Immigration Officer may, with the prior approval of the Minister, in the case of a person whose last sentence of imprisonment expired more than 5 years before the date upon which he desires to enter

Vanuatu, direct that such person shall be exempted from the provisions of this paragraph and such person shall not thereafter be a prohibited immigrant by reason of the provisions of this paragraph;

(e) any person who prior to his entry in Vanuatu or within 2 years thereafter, in consequence of information received from any government through official or diplomatic channels, or from any other source deemed by the Minister in his discretion to be reliable, is declared by the Minister in his discretion to be an undesirable immigrant;

(f) any person who is a member of any class or group of persons declared by the Minister to be a prohibited class for the purposes of this section;

(g) unless the Minister shall otherwise declare, any member of the family and any dependant of a prohibited immigrant.

(3) In any case where the Principal Immigration Officer refuses to allow any person to enter Vanuatu on the ground that such person is a prohibited immigrant, he shall inform him of the reasons for his decision.

16. Effect of expiration or cancellation of permit

It shall be unlawful for any person to remain in Vanuatu after the expiration or cancellation of any permit issued or deemed to be issued to him under this Act unless he is otherwise entitled to remain in Vanuatu under this Act.

PART 4 – REMOVAL OF PERSONS FROM VANUATU

17. Power to remove persons from Vanuatu

(1) Notwithstanding any other provisions of this Act, the Minister in his discretion may make an order in the form prescribed under this Act that any person, whether or not he is unlawfully present in Vanuatu, shall, on the expiry of 14 days or such longer period as the Minister in his discretion may specify from the date of service of the order on such person or on the completion of any sentences of imprisonment which he may be serving be removed from and remain out of Vanuatu, either indefinitely or for a period to be specified in that order.

(1A) Before making an order under subsection (1), the Minister must give the person notice in writing –

(a) that the Minister proposes to make the order; and

(b) the reasons why the Minister proposes to make the order; and

(c) that the person may, within 14 days from the date of the notice, make written representations to the Minister stating why the person should not be removed from Vanuatu.

(1B) The Minister must consider the representations before making an order under subsection (1).

(1C) If the Minister makes an order under subsection (1), the Minister must –

(a) record the decision in writing and the reasons for making the order; and

(b) give a copy of the order and the reasons –

(i) to the person; and

(ii) if the person was issued with a permit under section 9A, 9C or 9D, to the Vanuatu Investment Promotion Authority;

within 48 hours of making the order.

(2) An order made under this section shall be carried into effect in such manner as the Minister in his discretion may direct.

(3) A person against whom an order under this section is made may, if the Minister in his discretion so directs, while awaiting removal and while being conveyed to the place of departure, be kept in prison or in police custody, and while so kept shall be deemed to be in lawful custody.

(4) A person against whom a removal order has been made may be removed to the place whence he came, or with the approval of the Minister in his discretion, to a place in the country to which he belongs, or to any place to which he consents to be removed, provided that the Government of such last mentioned place consents to receive him.

(5) The master of a ship or aircraft which is proceeding to a place to which a person is directed to be removed and who is required by the Principal Immigration Officer to do so shall receive a person against whom a removal order has been made on board the ship or aircraft and upon payment therefor afford him a passage to that place and proper accommodation and maintenance during the passage. Except as provided by section 18, the cost of such passage, accommodation and maintenance shall be paid by the person removed and the Minister may apply any money or property of the person removed in payment of the whole or any part of such cost, or if the Minister thinks fit, the whole or any part of such cost shall be paid out of the Treasury.

(6) If any master of a ship or aircraft fails to comply with the provisions of subsection (5) he shall be guilty of an offence and the owner of the ship or aircraft and any agent of such owner in Vanuatu shall be guilty of a similar offence and liable to a similar penalty:

Provided that no person shall be convicted under this subsection if –

(a) he satisfies the court that the necessary accommodation was not available on the ship; or

(b) in the case of an aircraft, the commander had reasonable cause to believe that compliance with the provisions of the said subsection (5) may imperil the safety of the aircraft or any person therein; or

(c) in the case of an aircraft it would be contrary to any law to afford a person such passage as the Principal Immigration Officer may have required under the said subsection (5).

(7) If a person in respect of whom a removal order is made under this section has been sentenced to any term of imprisonment, such sentence shall be served before the order is carried into effect unless the Minister in his discretion otherwise directs.

17A. Removal of non-citizens from Vanuatu

(1) A person who is a non-citizen may be removed by the Minister, by Order, from Vanuatu if in the opinion of the Minister, the person –

(a) is involved in activities that are detrimental to national security, defence or public order; or

(b) is a wanted person in a foreign country for any criminal offence he has committed in that foreign country.

(2) The Minister does not need to give any notice for the removal of this person from Vanuatu.

(3) This section applies notwithstanding any other provision in this Act.

18. Liability for expenses incurred in respect of a prohibited immigrant

The master and the owner and the agent of any ship or aircraft from which any prohibited immigrant disembarks shall be jointly and severally liable to pay to the Minister all expenses incurred by the Minister in connection with the care, maintenance or treatment of such prohibited immigrant and his removal or conveyance from Vanuatu to the place from which he was brought by the ship or aircraft concerned. The amount of any such expenses as aforesaid shall be recoverable in an action brought by or in the name of the Principal Immigration Officer:

Provided that –

(a) the Minister may, if he thinks fit, direct that the whole or any part of such expenses shall be paid out of the Treasury;

(b) the provisions of this section shall not apply in the case of a person who is a prohibited immigrant by reason of being declared by the Minister after his entry into Vanuatu, to be in the class of undesirable immigrants under paragraph (e) of subsection (2) of section 15; and

(c) the provisions of this section shall not apply in any case where the prohibited immigrant is at the time of entry in possession of a permit purporting to authorise him to enter Vanuatu and to be issued under this Act.

PART 5 – SUPPLEMENTARY PROVISIONS

19. Proof of documents

Every document purporting to be a delegation, order, permit, declaration or cancellation under or in pursuance of the provisions of this Act and to be executed by the Minister or the Principal Immigration Officer or an immigration officer, shall be received in evidence and shall without further proof be deemed to have been executed by the Minister, the Principal Immigration Officer or the immigration officer, as the case may be, unless the contrary is shown.

20. No suit or damages maintainable for things done in good faith under this Act

(1) No suit or other legal proceedings for damages shall be instituted in any court of law against the Minister or the Principal Immigration Officer or any other officer or any other person for or on account of or in respect of any act, matter or thing done or omitted to be done or purported to be done or omitted to be done, in good faith, in the performance or exercise or intended performance or exercise of any duty or power imposed or conferred by or under this Act; and the provisions of this section shall extend to the protection from liability as aforesaid of any person deputed by delegation under this Act or under any other law for the time being in force to perform or exercise any such duty or power aforesaid.

(2) The exercise of any power or discretion conferred upon the Minister or the Principal Immigration Officer by any of the provisions of this Act shall not be called into question or challenged in any court in any proceedings whatsoever.

20A. Reasons for decision

If the Principal Immigration Officer refuses an application for a permit, the Principal Immigration Officer must give a copy of the decision, and the reasons for the decision, to the applicant with 7 days of making the decision.

21. Appeals

(1) Any person aggrieved by a decision of the Principal Immigration Officer under this Act may appeal against such decision to the Minister who, in his discretion, may confirm, vary or overrule the decision of the Principal Immigration Officer. The appeal shall be

by way of petition in writing and shall be made within 14 days of the decision appealed against or, where the aggrieved person is resident outside Vanuatu, within 28 days of such decision.

(1A) The Minister must decide the appeal within 30 days.

(1B) The Minister must –

(a) record the decision, and the reasons for the decision, in writing; and

(b) give a copy of the decision and the reasons to the person within 7 days of making the decision.

(2) The Principal Immigration Officer may grant to any person who intends to appeal to the Minister or to the Supreme Court, and to any member of the family and to any dependant of such person, an interim permit allowing him to enter and remain in Vanuatu pending the determination of such appeal.

(2A) The Principal Immigration Officer must grant an interim permit to a person whose residence permit was issued under section 9A or 9C.

(3) The Principal Immigration Officer shall not grant an interim permit under this section unless he is satisfied that the person is unlikely to become a charge on the public during the currency of the permit. Any such permit may be cancelled by the Principal Immigration Officer if the person concerned appears likely to become a charge on the public or if the appeal is not presented with all due despatch and, if not cancelled, shall expire on the determination of the appeal.

(4) If on appeal under section 21 the Minister refuses to issue a permit under this Act, the applicant may appeal to the Supreme Court against the refusal.

(5) A person against whom a removal order has been made may, within 14 days of receiving the order, appeal to the Supreme Court against the order.

(6) The Supreme Court has jurisdiction to hear and determine the matter.

(7) On an appeal against the Minister's refusal to issue a permit, the Supreme Court may –

(a) confirm the Minister's decision, or order that the Principal Immigration Officer issue the permit specified in the order for the period specified in the order; and

(b) make such other order as the court thinks fit.

(8) On an appeal against a removal order, the Court may –

(a) confirm or revoke the Minister's decision; and

(b) make such other order as the court thinks fit.

22. Offences and penalties

(1) Any person who –

(a) for the purpose of obtaining for himself or for any other person or of assisting any other person to obtain any permit, exemption or other advantage under this Act or, with intent to deceive any immigration officer, makes or causes to be made any declaration, return or statement which he knows or has reasonable cause to believe to be false or misleading, or uses any forged or unlawfully altered birth certificate, marriage certificate or any other forged or unlawfully altered document of any nature whatsoever or any passport which or in which any visa, entry or endorsement has been forged or unlawfully altered knowing or having reasonable cause to believe such certificate, document, passport, visa, entry or endorsement to be forged or unlawfully altered; or

(b) alters or wilfully defaces any permit or any entry or endorsement in any passport issued or made under or in pursuance of the provisions of this Act, or any official or certified copy of any such permit, entry or endorsement; or

(c) wilfully resists, hinders or obstructs the Principal Immigration Officer or any immigration officer or other officer or person in the lawful execution of any duty, or in the lawful exercise of any power, under this Act; or

(d) knowingly misleads or attempts to mislead the Principal Immigration Officer or any immigration officer in relation to any matter material to the performance or exercise of any duty, function, power or discretion under this Act; or

(e) uses or has in his possession, without lawful excuse (the burden of proof whereof shall lie upon the person charged), any forged or unlawfully altered permit or other document issued or purporting to have been issued under this Act; or

(f) knowingly uses or has in his possession any unlawfully issued or otherwise irregular permit or other document issued or purporting to have been issued under this Act; or

(g) refuses or fails to submit to a medical examination, when so required under paragraph (d) of subsection (1) of section 4; or

(h) having arrived in Vanuatu as a passenger by sea or air from any place outside Vanuatu fails to appear before the Principal Immigration Officer as directed by him, unless exempt, under subsection (2) of section 10; or

(i) unlawfully enters or is unlawfully present in Vanuatu; or

(j) refuses or fails to comply with any notice issued to him under this Act with which he is required by the Act to comply; or

(k) fails to comply with any term or condition subject to which any permit has been issued to him under this Act; or

(l) harbours any person whom he knows or has reasonable cause to believe to be a person whose presence in Vanuatu is unlawful; or

(m) uses any certificate, permit or exemption issued under this Act to or in respect of any other person as if it had been issued to or in respect of himself; or

(n) gives, sells or parts with the possession of any such certificate, permit or exemption in order that or intending or knowing or having reasonable cause to believe that, it may be used in contravention of paragraph (m) of this subsection; or

(o) having been directed by any order made under section 17 to remain out of Vanuatu, fails so to do in contravention of such order;

shall be guilty of an offence against this Act.

(2) For the purposes of any proceedings for an offence under paragraph (a) of subsection (1), a declaration, return or statement to which that paragraph relates shall be deemed to have been made or caused to have been made, as the case may be, at the time and place at which the same was received by the officer or person to whom it was addressed.

(3) Any person convicted of an offence against this Act for which no penalty is otherwise provided shall be liable to a fine not exceeding VT 200,000 or to a term of imprisonment not exceeding 1 year or to both such fine and imprisonment.

(4) Where any person is convicted of an offence under paragraph (a) of subsection (1), the Principal Immigration Officer may cancel any permit which was issued in consequence of such offence.

(4A) Any person who is convicted of an offence under paragraph (i) of subsection (1) is liable to a fine not exceeding –

(a) VT 100,000, if he or she was unlawfully present in Vanuatu for less than 3 months at the time he or she was charged with the offence; or

(b) VT 250,000, if he or she was unlawfully present in Vanuatu for 3 months or more but less than 6 months at the time he or she was charged with the offence; or

(c) VT 500,000, if he or she was unlawfully present in Vanuatu for 6 months or more at the time he or she was charged with the offence.

(5) Where any person is convicted of an offence under paragraph (k) of subsection (1) the Principal Immigration Officer shall cancel the permit in respect of which the offence was committed.

(6) Any person who is convicted of an offence under paragraph (o) of subsection (1) shall be liable to a fine not exceeding VT 500,000 or to imprisonment for a term not exceeding 5 years or to both such fine and imprisonment.

(7) Where any prohibited immigrant enters Vanuatu on or from a ship, whether or not with the knowledge of the owner or master or of any agent therefor, such owner and master and such agent shall be guilty of an offence and shall be liable to a fine not exceeding VT 1,000,000:

Provided that it shall be a defence to a charge under this subsection that the owner, master or agent as the case may be, had reasonable cause to believe that such prohibited immigrant was in possession of a valid permit authorising him to enter Vanuatu.

(8) In any proceedings for an offence under this section a person shall be deemed to know the contents of any declaration, return or statement which he has signed or marked, whether he has read such declaration, return or statement or not, if he knows the nature of the document.

22A. Penalty notices

(1) The Principal Immigration Officer may serve a penalty notice on a person if it appears to the Officer that the person has committed an offence under section 22(1).

(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 must, within 30 days after receiving the notice, pay to the Principal Immigration Officer the amount of the penalty prescribed by the regulations if dealt with under this section.

(3) The amount prescribed by the regulations must not exceed fifty percent of the maximum penalty specified by section 22 for the offence.

(4) If the amount specified in the penalty notice is paid under this section, no person is liable to any further proceedings for the alleged offence.

(5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil proceeding arising out of the same occurrence.

23. Minister's power to make regulations

(1) The Minister may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, and generally for

the purpose of carrying this Act into effect, and in particular may make regulations to provide for –

(a) the fees or other charges to be payable with respect to any matter done or required to be done under this Act and the persons liable to pay the same;

(b) the forms to be used for the purposes of this Act.

(2) The regulations referred to in subsection (1)(a) shall be made by the Minister in consultation with the Minister responsible for finance.

SCHEDULE 1

(Repealed)

SCHEDULE 2

(Sections 9A(2)(b), 9C(1)(b) & 9D(b))

STATUTORY DECLARATION

I, [name in full] of [address], do solemnly and sincerely declare as follows:

1. I am the applicant named in the attached immigration application.

2. I have not been convicted of a criminal offence in any country, other than a traffic offence that did not cause bodily harm to a person, during the past 10 years.

OR

2. I have been convicted of the following criminal offences during the part 10 years:

[*list the following information about each offence, other than traffic offences that did not cause bodily harm to a person: description of criminal offence, date of conviction, city and country where convicted, penalty imposed*]

3. I authorise the Principal Immigration Officer to carry out any inquiries, in Vanuatu or elsewhere, that he or she considers necessary to verify this declaration. I understand that if those inquiries disclose serious offences other than those listed above, the Principal Immigration Officer may take action against me under section 9F of the Immigration Act.

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act.

DECLARED at [*place where declaration signed*]
this [*date declaration signed*] [*signature of the person making declaration*]

Before me:

[*Signature of person before whom declaration made*]
[*Description of person*]

[NOTE: Under section 9F of the Immigration Act, if the Principal Immigration Officer's inquiries disclosed serious offences as defined in that Act that the applicant has not disclosed, a removal order may be made against the person. However, if a residence permit is issued to a person who has disclosed serious offences, those offences cannot be used as grounds for making a removal order.]

Table of Amendments (since the Revised Edition 1988)

1	*Amended by Act 13 of 1998*
5(2)	*Amended by Act 13 of 1998*
5(3)	*Repealed by Act 13 of 1998*
9A-9F	*Inserted by Act 13 of 1998*
13(1A)	*Inserted by Act 13 of 1998*
13(3)	*Amended by Act 13 of 1998*
13(4)-(6)	*Inserted by Act 13 of 1998*
14A	*Inserted by Act 15 of 1995*
17(1)	*Amended by Act 13 of 1998*
17(1A)-(1C)	*Inserted by Act 13 of 1998*
17A	*Inserted by Act 3 of 2004*
20A	*Inserted by Act 13 of 1998*
21(1A), (1B)	*Inserted by Act 13 of 1998*
21(2)	*Amended by Act 13 of 1998*
21(2A)	*Inserted by Act 13 of 1998*
21(4)-(8)	*Inserted by Act 13 of 1998*
21A	*Inserted by Act 14 of 1990; repealed by Act 22 of 2005*
22(3),(6),(7)	*Amended by Act 22 of 2005*
22(4A)	*Inserted by Act 22 of 2005*
22A	*Inserted by Act 22 of 2005*
Sched 1	*Inserted by Act 14 of 1990; amended by Acts 15 of 1995, 10 of 1997; repealed by Act 22 of 2005*
Sched 2	*Inserted by Act 13 of 1998*
Throughout	*"Foreign Investment Board" updated to "Vanuatu Investment Promotion Authority"*