REPUBLIC OF VANUATU

COMMISSION OF INQUIRY ACT [CAP 85]

Instrument of Appointment- Commission of Inquiry into the Matters relating to the Affairs of the Vanuatu Citizenship Commission and its related Programs Order No. 70 of 2024

In exercise of the powers conferred on me by subsection 1(1) of the Commission of Inquiry Act [CAP 85], I, the Honourable JOHN NALAU AMOS, Minister of Justice and Community Services, make the following Order.

1 Establishment of the Commission

The Commission of Inquiry into the matters relating to the affairs of the Vanuatu Citizenship Commission and its related programs is established.

2 Appointment of the Commissioners

The following persons are appointed as the Commissioners:

(a) Peter BONG; and

(b) Lawson SAMUEL; and

(c) Jimmy EDWARDS; and

(d) Fred VUROBARAVU; and

(e) Sowany JOSEPH; and

(d) Willie ALICK.

3 Appointment of the Chairman of the Commission

Peter BONG is appointed as the Chairman of the Commission.

4 Appointment of the Secretary of the Commission

Lawson SAMUEL is appointed as the Secretary of the Commission.

5 Location of inquiry

The inquiry is to be made in Port Vila, at the Ministry of Justice and Community Services Conference room in Port Vila, or in such other places as the Commission determines necessary.

6 No public inquiry

The Commission of Inquiry is not obliged to hold any public inquiries.

7 Terms of reference

(1) The terms of reference of the Commission are set out in the Schedule.

(2) The terms of reference of the Commission may be amended or varied by the Minister in consultation with the Commission.

8 Remuneration and cost

(1) The members of the Commission are entitled to the following remuneration:

(a) Chairperson VT1,000,000; and

(b) Members VT650,000; and

(c) Secretary VT850,000.

(2) The remunerations referred to in subclause (1) must be paid as set out in the Schedule.

(3) The costs for the Commission to carry out its duties under this Order are to be met by the State.

9 Duration of the Inquiry

(1) The Commission has 3 months from the commencement of this Order to compile its finding and submit a complete report to the Minister.

(2) If the Commission is unable to meet the requirements under subclause (1) due to some unforeseen circumstances, the Commission may extend the

duration of the Inquiry, after consultation with the Minister responsible for the inquiry and the Prime Minister.

(3) If there is an extension of the Contract under subclause (2), it is to be subject to the same terms and conditions of Terms of Reference of this Order.

10 Commencement

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

Made at Port Vila this 26th **day of** April **, 2024.**

REPUBLIC OF VANUATU Ministry of Justice & Community Service MINISTER Ministère de la Justice et des Services Communautée REPUBLIQUE DE VANUATU

Honourable JOHN AMOS NALAU
Minister of Justice and Community Services

SCHEDULE

COMMISSION OF INQUIRY INTO THE MATTERS RELATING TO THE AFFAIRS OF THE VANUATU CITIZENSHIP COMMISSION AND ITS RELATED PROGRAMS

Terms of Reference

1 Purpose

The principal purpose of the Commission of Inquiry is to investigate the functions of the Citizenship Commission along with all government departments activities related to citizenship by investment programs and to identify any corruption or failures in the State administration.

2 Background/Context

The European Union Council partially suspended the Visa Waiver agreement with the Republic of Vanuatu. The Council cited the EU has concluded that there are serious deficiencies in its investor citizenship schemes which could posed a risk to the EU.

Under the Leadership of the Honourable Ishmael Kalsakau Maukoro, the then Prime Minister of Vanuatu in December 2022 obtained an extension of this partial extension, avoiding a full suspension, on the basis of reforms to the Vanuatu Investment Citizenship Programmes would be undertaken. The Commission of Inquiry is formed in response to these actions.

3 Objectives

The objectives of the Commission of Inquiry are to ascertain the functions, activities and actions of the key government stakeholders involves in the process of managing the Citizenship by Investment Programs along with the integrity of the Vanuatu Citizenships issued since 2018.

The stakeholders include, but not limited to the Department of Finance, Approved Citizenship Program Agents, the Vanuatu Financial Intelligent Unit, the Vanuatu Citizenship Commission and the Department of Immigration.

Based on its findings it must make recommendations of any officials, persons, and citizenships issued for potential further investigation. It must make recommendations, based on its findings to strengthen the programs with the

ultimate goal of satisfying the EU Council and having the EU Visa Waiver agreement reinstated.

4 Scope of Inquiry

The Commission must have a wide scope of investigation and must review:

(a) all records, financial or otherwise, of the Vanuatu Citizenship Commission relating to the citizenship by Investment program; and

(b) all processes of the key government stakeholders including the examination of policies and procedures; and

(c) any complaints related to the issuance of the Vanuatu citizenships made against any approved agents of the programs or any government officials of the since 2018; and

(d) records of all correspondences with the EU and taskforce meeting minutes to accurately report actions taken and lessons learnt that could improve the process; and

(e) the screening and background check processes of all applicants to the program undertaken by the relevant stakeholders; and

(f) whether Vanuatu Citizenships granted followed proper process and were in compliance with the various Regulations and Acts under which the Citizenship Programmes are governed; and

(g) the financial payments in relation to all applicants under the Citizenship programmes; and

(h) any irregularities in the processes required to obtain Vanuatu citizenship of any applications and compile a list of said irregularities and recommend course of action; and

(i) any weaknesses in the system that have been discovered. List them along with potential solutions to mitigate the risk and resolve the weaknesses and strengthen the processes; and

(j) the actions that were taken in relation to the concerns of the EU by the Citizenship Commission, its special taskforce and associated stakeholders to respond to the said concerns.

5 Meetings

(1) The Commission is to meet more than once a week to review the progress of work undertaken or regularly based on the need and directed by the Chairman.

(2) The Secretary is to prepare the agenda of a meeting with documents, if necessary, and is to forward the agenda and the documents to the Chairman by close of business one working day prior to the meeting.

(3) The Secretary is to prepare the minutes of each meeting and is to provide the minutes to each member no later than one working day following each meeting.

(4) The quorum of the meeting is half of the regular membership plus one member.

6 Report

The Commission is to provide a full report on the findings and recommendations of this inquiry to the Minister for Justice and Community Services. The Minister is to report and table a recommendation to the Council of Ministers.

7 Renumeration of the Commissioners

The remuneration of the Commissioners is as follows:

(a) the Chairman is to receive a payment of 1,000,000 vatu; and

(b) the Members are to receive a payment of 650,000 vatu each; and

(c) the Chairman and the members will receive first instalment of 20% upon the signing of the Terms of Reference and the issuance of appointment letters. The second instalment of 40% is to be paid once the First Draft Report has been finalized. The third and final instalment of 40% is to be paid once the final report has been finalised and presented to the Minister responsible for Justice and Community Services.

8 Remuneration of the Secretary

The Secretary of the Commission is to receive a payment of 850,000 vatu and is to be paid in the manner stated in paragraph 7(c).

9 External Assistance

The Chairman of the Investigative team is to have the discretion to engage a third party to undertake any specific task as required by the Investigative team.

10 Duration of the Inquiry

The Commission has 3 months from the commencement of this Order to compile its finding and submit a completed report to the Minister for Justice and Community Services.

11 Financial and Logistical Support

(1) The Ministry of Prime Minister will provide financial support to the Commission of Inquiry for the following matters:

(a) Stationary; and

(b) Communications; and

(c) Fuel for vehicles.

(2) The Ministry of Prime Minister is to provide a vehicle for logistical support to the Commission of Inquiry for work related purposes.