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CHAPTER 209

NATIONAL BANK OF VANUATU

Act 46 of 1989
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NATIONAL BANK OF VANUATU

An Act to provide for the establishment and management of the National Bank of Vanuatu.

PART 1 – INTERPRETATION

1. Interpretation

In this Act, unless the context otherwise requires –

"Bank" means the National Bank of Vanuatu established under section 2;

"Board" means the Board of Directors of the Bank established in accordance with section 4;

"Chairman" means the Chairman of the Board appointed in accordance with section 5;

"Deputy Chairman" means the Deputy Chairman of the Board appointed in accordance with section 5;

"financial institution" means a company which carries on a banking business;

"licensed financial institution" means a financial institution which is licensed under the Banking Act, as amended,* to conduct banking business;

"Managing Director" means the Managing Director of the Bank appointed in accordance with section 21;

"Minister" means the Minister for the time being responsible for finance or any Minister acting on his behalf.

PART 2 – ESTABLISHMENT AND FUNCTIONS OF THE BANK

2. Establishment of the Bank

(1) There is hereby established a bank to be known as the National Bank of Vanuatu.

(2) The Bank shall be a body corporate with perpetual succession and a common seal and shall, under its name, be capable of suing and being sued, and of acquiring, holding and disposing of property, movable and immovable, of every description, and entering into contracts and of doing and performing all such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Act.

3. Functions of the Bank

(1) The functions of the Bank shall be –

(a) to accept moneys on deposit payable at call, at notice or fixed time deposits and to pay interest thereon;

(b) subject to the provisions of this Act and subject to such conditions the Board may from time to time determine, to invest such liquid assets of the Bank for the time being not required for the purposes of the business of the Bank –

(i) with any bank or financial institution in Vanuatu;

(ii) with any bank or financial institution outside Vanuatu.

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* *Editor's Note: This Act has since been repealed; Licensing of financial institutions occurs pursuant to the Financial Institutions Act [Cap. 254] and the International Banking Act [Cap. 280]*

For the purpose of this paragraph, "liquid assets" shall have the same meaning as in section 29(2).

(ba) subject to the provisions of this Act to grant any loan, advance, credit or credit facility to any individual, firm, institution, body, group or association (whether incorporated or not) or company.

(c) to operate standing order arrangements and other periodical payments on behalf of the depositors;

(d) to buy, sell, discount, and rediscount bills of exchange, promissory notes, Treasury bills and Treasury notes;

(e) to buy and sell Government securities and other securities;

(f) to buy, sell and otherwise deal in foreign exchange and gold and other precious metals;

(g) to establish credits and engage in hire-purchase, lease, financing and factoring;

(h) generally to carry on and transact any business of financiers as principal or agents;

(i) to issue bills and drafts and effect transfers of money;

(j) to guarantee the due fulfillment of contract obligations by any person or corporation;

(k) to act as attorney for any person;

(l) to form subsidiaries in any manner permitted by law;

(m) to subscribe to, buy or otherwise acquire, hold and sell shares, stock and other securities;

(n) to enter into –

(i) any arrangement for the sharing of profits, union of interest, cooperation, joint venture, reciprocal concession or otherwise with any individual, firm, corporation or company; or

(ii) any business or transaction capable of being conducted so as to directly or indirectly benefit the Bank;

(o) to promote, effect, insure, guarantee, underwrite, participate in, manage and carry out any issue of shares, stock, debentures or debenture stock of any company, corporation or association and to lend or borrow money for the purpose of any such issue;

(p) to keep for any company, corporation or association any register relating to any shares, stock, bonds or other securities or to undertake any duties in relation to the registration of transfers or the issue of certificates or otherwise;

(q) to act as trustee and administer any trust fund and generally to undertake any other trust the undertaking of which is desirable;

(r) subject to the provisions of the Vanuatu National Provident Fund Act [Cap. 189], to administer any superannuation, provident or retirement fund or scheme for the benefit of its officers and servants;

(s) to furnish managerial, financial, technical and administrative advice and assist in obtaining managerial, financial, technical and administrative services for industrial, agricultural and commercial enterprises;

(t) to undertake research, studies, investigations and experiments in regard to the economic, financial and technical feasibility of industrial, agricultural, commercial and other projects or enterprises;

(u) to acquire such assets as may be required for the operations of the Bank, including the acquisition of banking businesses or interests;

(v) at the written request of the Minister, to collect and transmit moneys on behalf of the Government on payment of such commission or other charges as the Minister may approve;

(w) at the request of the Development Bank of Vanuatu to provide debt collecting services on behalf of that bank or otherwise act as an agent thereof on such terms and conditions and on payment of such commission or other charges as may be mutually agreed;

(x) to operate such other banking services and transact such other banking business of any class or description, as the Board with the written consent of the Minister may, from time to time, determine;

(y) to do all such other things as are incidental or conducive to the better and efficient exercise of the abovementioned functions or any of them;

(z) to divest bad or poorly performing loans from the Development Bank of Vanuatu in accordance with an agreement or agreements entered into between the Bank and the relevant party.

(2) The Bank may for the purpose of the exercise of its functions –

(a) establish branches and agencies at such places in Vanuatu as the Board shall determine;

(b) arrange with any person to act as agent of the Bank at any place within or outside Vanuatu.

(3) Subject to the provisions of this Act, the Bank, its members, Managing Director, officers and servants –

(a) shall not be subject to the direction or control of any other person or body in the exercise of their functions; and

(b) shall act in accordance with any general policy directions in the national interest given in writing to it from time to time by the Minister after consultation with the Board.

PART 3 – BOARD OF DIRECTORS, POWERS OF THE BOARD, MEETINGS AND PROCEDURES

4. The Board of Directors

(1) There shall be a Board of Directors of the Bank which, subject to the provisions of this Act, shall have power to do all such things as are in their opinion necessary for or conducive to the proper discharge of the functions of the Bank as described in section 3.

(2) It shall be the duty of the Board to ensure that the policy of the Bank is directed towards the national interest and has due regard to the stability and balance development of the economy of Vanuatu.

(3) The Board will consist of the following members appointed by the Prime Minister:

(a) a representative of the Ministry of Finance and Economic Management nominated by the Minister; and

(b) a person with legal qualifications or experience; and

(c) the general manager (however designated) of the Vanuatu Commodities Marketing Board: and

(d) the General Manager (however designated) of the Vanuatu Chamber of Commerce; and

(e) a representative of the Vanuatu Financial Centre Association Limited (provided that person is not employed or involved in the domestic banking industry in Vanuatu) as nominated by that organisation; and

(f) the Managing Director of the Bank.

(3A) The members appointed under subsection (3) shall hold office:

(a) in the case of members appointed under paragraphs (a) and (b) for 3 years, and may be reappointed once for a further 3 years, and

(b) in the case of members appointed under paragraphs (c), (d) and (f) for the term of the member's employment in that office; and

(c) in the case of the member appointed under paragraph (e), for a term of 2 years and may be reappointed once for a further 3 years.

(4) The members of the Board referred to in subsection (3) must have at least 5 years experience in business or in activities undertaken by members of the Vanuatu Finance Centre Association or must have a university degree or similar qualification in commerce, accounting or law.

(5) Subject to subsection (6), the term of office of any member of the Board shall be for such period as may be determined by the Minister; provided that such period shall not be more than three years.

(6) A member of the Board shall hold office for the period of his appointment unless he is removed from, or otherwise vacates, office earlier.

(7) A member of the Board, other than a member who is removed from office under section 7, or who is deemed to have vacated his office under section 12, shall be eligible for re-appointment.

(8) Members of the Board must perform their functions in an impartial and professional manner.

5. Chairman and Deputy Chairman

(1) The Chairman of the Board must be appointed from the members of the Board referred to in section 4(3)(b)-(e) by the Prime Minister after consultation with the Minister on such terms and conditions as may be determined by the Prime Minister (but subject to any enactment providing for the amount and manner by which any such remuneration will be determined).

(2) The Chairman may only be removed from that office by the Prime Minister on the unanimous recommendation of a panel comprising the chairman of the Public Service Commission and the Chairman of the Vanuatu Financial Centre Association Limited, for incompetence, disability, bankruptcy, neglect of duty or misconduct.

(3) The members of the Board shall, from amongst their number, elect a Deputy Chairman of the Board.

6. Disqualification from membership of the Board

A person shall be disqualified from being appointed or for continuing as a member of the Board:

(a) if he is or becomes a member of Parliament;

(b) if he is or becomes a member of the Board of Directors, or an officer, or servant of the Reserve Bank of Vanuatu.

(c) if he is or becomes an officer or servant of the Bank;

(d) if he is 70 years old;

(e) if he is or becomes an undischarged insolvent or bankrupt;

(f) if he is convicted of an offence involving moral turpitude;

(g) if he has any financial or other interest as is likely to affect prejudicially the discharge by him of his duties as a member of the Board;

(h) in the case of a person having professional qualifications, if he is disqualified or suspended from practicing his profession by the order or decision of any competent authority made in respect of him personally by reason of his conduct.

7. Power of the Minister to remove from office a member of the Board

The Minister may by notice in writing remove a member of the Board from office for the following reasons –

(a) where he becomes subject to any disqualification specified in section 6; or

(b) where he becomes permanently incapable of performing his duties; or

(c) where he has done any act or thing which amounts to gross misconduct or negligence in the discharge of his duties; or

(d) where he has been convicted and sentenced to a term of imprisonment including a suspended sentence for an offence under the laws of Vanuatu.

8. Resignation of members of the Board

(1) A member of the Board may resign his office by giving one month's notice, in writing of his intention to resign, to the Minister.

(2) A member of the Board (upon resignation from or termination of his term of office) shall not participate on behalf of any person in any matter which was pending before the Board on the date of his resignation from or termination of his office, as the case may be, for a period of one year from such date of resignation or termination of term of office, and shall not participate on behalf of any person in any matter in which he, while he was a member of the Board, personally and substantially participated.

9. Appointment of persons in the event of death, resignation, vacation or removal from office of a member of the Board

(1) If a member of the Board dies, resigns, is deemed to have vacated his office under section 12 or is removed from office, the Minister shall, having due regard to the provisions of subsections (3) and (4) of section 4, appoint another person to be a member in his place.

(2) A member appointed under subsection (1) shall, unless he is removed from or otherwise vacates office earlier, hold office for the unexpired part of the term of office of the member whom he succeeds.

10. Temporary appointment of member of the Board

Where a member of the Board is by reason of illness, infirmity or absence from Vanuatu temporarily unable to perform the duties of his office, the Minister on being so notified may, having due regard to the provisions of subsections (3) and (4) of section 4 appoint another person to act in his place until such time as the member concerned resumes duties.

11. Validity of acts or proceedings of the Board

No act or proceeding of the Board shall be deemed to be invalid by reason of the existence of any vacancy amongst its members or any defect in the appointment of any member.

12. Vacation of office of member of the Board by reason of absence from meeting

A member of the Board shall be deemed to have vacated his office if he is absent from three consecutive meetings of the Board without excuse deemed sufficient in the opinion of the Board.

13. Remuneration and allowances of Board members

Members of the Board will serve without remuneration but will be entitled to a sitting allowance of VT 5000 per day (or part day as the case may be) and to reimbursement of travelling and other expenses in respect of attendance at Board meetings.

14. Delegation of functions by the Board

(1) Subject to the provisions of this Act, the Board may delegate to any officer of the Bank, member of the Board or a committee comprising of members of the Board the authority, except the power to delegate, to carry out on its behalf such functions, and upon such terms or conditions, if any, as the Board may determine.

(2) Notwithstanding any delegation of authority under subsection (1), the Board may, at any time in its own right, exercise any function which is the subject of such delegation.

15. Meetings of the Board

(1) The Board shall meet at such times as they may consider necessary for the transaction of business; provided that there shall be at least two meetings in every 12 months.

(2) Meetings of the Board shall be at such times and places as the Board, or the Chairman, or in his absence the Deputy Chairman, may from time to time determine.

(3) The Chairman, or in his absence the Deputy Chairman, shall preside over the meetings of the Board.

(4) Where any business at a Board meeting concerns a member in his personal or business capacity (being other than a matter concerning him as a member of the Board) then the member must absent himself from that part of the meeting that deals with that business and will not be entitled to vote in respect of that business.

16. Quorum at meetings of the Board

(1) The quorum for any meeting of the Board shall be three members, two of whom shall be the Chairman, or in his absence the Deputy Chairman and the member of the Board appointed under subsection 3(a) of section 4.

(2) In the absence of a member appointed under subsection 3(a) of section 4 from any meeting of the Board, an officer nominated by that member from the Ministry of Finance shall act as that member's alternate at that meeting.

(3) (*Repealed*)

17. Decisions of the board

The decisions of the Board shall be by majority vote and in the event of an equality of votes the Chairman, or in his absence, the Deputy Chairman, shall have a second or casting vote.

18. Procedures of the Board

Subject to the provisions of this Act, the Board may regulate its own procedures and, in particular may regulate the holding of meetings, the notice to be given of any meeting, the

proceedings at any meetings, the keeping of minutes, the custody, production and inspection of minutes, and the opening, keeping, closing and audit of accounts.

19. Disclosure of interest by members of the Board

(1) Every member of the Board shall fully disclose to the Board any financial or other personal interest that he may have directly or indirectly in any matter before the Board and shall not take part in the discussion of any such matter nor vote thereon, and, if requested to do so by the Chairman, or in his absence, the Deputy Chairman, shall absent himself while deliberations with respect to any such matter are taking place.

(2) (a) Every member must upon appointment to the Board fully disclose all financial and other personal interests including all other board memberships and directorships and the Board must maintain a register of Board members' interests in which those particulars must be recorded.

(b) Without limiting the generality of paragraph (a), each member must fully disclose upon his or her appointment to the Board and then annually thereafter in respect of himself or herself and his or her immediate family, interests in:

(i) land and other property (except the family home and personal effects);

(ii) vehicles (except one family vehicle);

(iii) shares in public or private companies;

(iv) income;

(v) liabilities (except liabilities relating to the family home and personal effects);

(vi) directorships in corporations;

(vii) directorships or other office held in unincorporated bodies;

(viii) gifts received of a value greater than VT 20,000;

(ix) any assets acquired or disposed of during the past twelve months;

(x) any liabilities acquired or discharged during the last twelve months;

(xi) assets held outside Vanuatu;

(xii) a trust.

20. Seal of the Bank

The seal of the Bank –

(a) shall be in the custody of such persons as the Board may from time to time determine;

(b) may be altered in such manner as may be determined by the Board; and

(c) shall not be affixed to any instrument or document except with the prior written approval of the Board and in the presence of at least one member of the Board, or a duly authorized officer of the Bank, who shall sign the instrument or document in token of his presence.

PART 4 – MANAGING DIRECTOR, OFFICERS AND SERVANTS OF THE BANK

21. Managing Director of the Bank

(1) The Prime Minister after consultation with the Minister and on the recommendation of the Board will appoint a Managing Director who must be a person with not less than 5 years experience in banking business or financial matters and hold a relevant university degree or similar qualification.

(2) The Managing Director appointed under subsection (1) shall be paid by the Bank such remuneration, and be entitled to such other terms and conditions of employment as shall be specified in his contract of employment.

(3) The Managing Director shall be the Chief Executive Officer of the Bank and shall be responsible to the Board for the execution of its policy and the management of the Bank.

(4) Except as may otherwise be provided in this Act, the rules of the Board or in the resolutions of the Board, the Managing Director shall have power to act, enter into contracts and sign any instruments and documents, on behalf of the Bank.

(5) The Managing Director may with the approval of the Board, delegate any of his powers under this Act to any other officer or servant of the Bank.

(6) The Managing Director shall devote the whole of his professional services to the Bank and shall not while holding office, hold any other office or employment, whether for remuneration or not, except as a nominee of the Bank, or with the written consent of the Minister.

(7) Notwithstanding anything in this or any other Act the Managing Director will be entitled to 3 months salary in lieu of notice of termination and any contractual obligation to the contrary shall have no effect.

(8) The Managing Director must not delegate his or her function to attend Board meetings unless the Managing Director will, for reasons beyond his or her control, be unable to attend.

22. Officers and servants of the Bank

(1) The Board may appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, such officers and servants as it thinks necessary for the proper management of the Bank and may dismiss any such officer or servant.

(2) All officers and servants of the Bank shall make and subscribe to a declaration of secrecy in such form and manner as the Board shall determine.

PART 5 – AUTHORISED CAPITAL, PROFITS, RESERVES AND RESTRICTIONS ON CERTAIN ACTIVITIES

23. Authorised share capital of the Bank

The authorised share capital of the Bank shall be 200 million Vatu and shall be divided into 20,000 shares of 10,000 Vatu each.

24. Increase and reduction of the share capital

On the recommendation of the Board and subject to the written approval of the Minister given in accordance with the recommendation of the Council of Ministers, the authorised share capital of the Bank may be increased or reduced by a resolution of the Board by such amount and in such manner as shall be specified in the resolution.

25. Allotment and transfer of shares

(1) Not less than 51 per cent of the amount of the issued share capital of the Bank shall be held by the Government at all times.

(2) Subject to the written approval of the Minister given in accordance with the recommendation of the Council of Ministers, the Board may allot shares in any part of the authorised share capital of the Bank to any person, body or institution at such price and on such terms and conditions as the Board thinks fit:

Provided that the total number of shares so allotted must not be such as to reduce the shareholding of the Government to less than that provided for in subsection (1).

(3) No transfer or assignment of any share or any right or any interest whatsoever in any share shall have effect unless such transfer or assignment has been approved, in writing, by the Board and the Minister:

Provided that such approval may not be given so as to reduce the shareholding of the Government to less than provided for in subsection (1).

26. Limited liability of shareholders

The liability of the shareholders shall be limited to the amount, if any, of unpaid shares held by them.

27. Profits and dividend

(1) The net profit of the Bank for any financial year shall be determined by the Board after meeting all current expenditure for that year and after provisions being made for any bad and doubtful debts, depreciation in investments and other assets and such other purposes as the Board may consider necessary.

(2) The balance of the net profit of the Bank or such part thereof as the Board with the written approval of the Minister may determine, remaining after provisions being made as required by sections 28 and 29, shall be allocated to a distribution of dividend.

28. Reserve fund

(1) The Bank shall have a reserve fund to which there shall be transferred out of its net profits each year and before any dividend is declared a sum equal to not less than twenty-five percent of its net profits.

(2) With the written approval of the Minister the Board may direct that a part not exceeding one-half of the reserve fund be converted into issued paid-up capital:

Provided that the amounts so converted shall not at any time exceed the difference between the issued paid-up capital and the authorised share capital of the Bank.

29. Minimum holding of liquid assets

(1) The Bank shall in relation to its operations in Vanuatu maintain such minimum holding of liquid assets which shall be prescribed by the Minister and which shall not exceed 25 percent of the Bank's deposit liabilities.

(2) In this section "liquid assets" means cash, moneys deposited on call with any bank or financial institution in Vanuatu, money deposited with the Reserve Bank of Vanuatu and such other assets, if any, as the Minister may, with the concurrence of the Reserve Bank of Vanuatu, and consultation of the Board, direct.

30. Restrictions on certain activities by the Bank

(1) Notwithstanding anything to the contrary in this Act, the Bank shall not without the written approval of the Reserve Bank of Vanuatu, given with the concurrence of the Minister, grant to –

(a) any individual, firm, corporation or company;

(b) any holding company and any one or more of its subsidiaries; or

(c) any group comprising any combination of individuals, firm, corporations or companies which is under the control of the same individual, firm, corporation or company,

any advance or credit facility or give any financial guarantee or incur any other liability on behalf of such individual, firm, corporation, company or group, so that the total value of such advance, credit facility, financial guarantee or other liability is at any time more than twenty-five percent of the paid-up capital and published reserves of the Bank.

For the purposes of this subsection an advance by the Bank to a company shall include the value of all shares, stocks and debentures issued by that company and held by the Bank.

(2) The provisions of subsection (1) shall not apply to the following –

(a) transactions between the Bank or a branch thereof and a licensed financial institution or a branch of a licensed financial institution;

(b) purchase of telegraphic transfer or any advance made against such transfer;

(c) purchase of bills of exchange or documents of title to goods where the holder of such bills or documents is entitled to payment outside Vanuatu, for exports from Vanuatu, or to any advance made against such bills or documents;

(d) any advance or credit facility made to the Government, or guaranteed by the Government;

(e) transactions with respect to bankers acceptance, bills of exchange or any other commercial paper, of the kinds and maturities authorised by the Reserve Bank of Vanuatu;

(f) any advance or credit facility granted against security, covered by insurance to such extent and in such manner as the Reserve Bank of Vanuatu may approve and such security having a value of at least twenty-five percent more than the amount of the obligation secured thereby.

(3) The Bank shall not grant any advance or credit facility against –

(a) the security of its own shares;

(b) the security of the shares of any other licensed financial institution without the written approval of the Reserve Bank of Vanuatu.

(4) The Bank shall not grant or permit to be outstanding unsecured advances or unsecured credit facilities of an aggregate amount in excess of VT 300,000 or of one percent of the sum of the paid-up capital and published reserved of the Bank, whichever is the greater, or give any financial guarantees in excess of such amount without security, or incur any other liability in excess of such amount without security–

(a) to or on behalf of any one of the members of the Board, whether such advances, facilities, guarantees or other liabilities are obtained by or on account of such member jointly or severally;

(b) to or on behalf of any firm, corporation, or company in which it, or any one or more members of the Board is interested as director, partner, manager or agent, or to or on behalf of any individual, firm, corporation or company of which any one or more members of the Board is a guarantor.

For the purposes of this subsection a member of the Board includes the wife, husband, father, mother, a son or a daughter of such member.

(5) The Bank shall not grant or permit to be outstanding to its officers and servants unsecured advances or unsecured credit facilities including guarantees or other liabilities incurred on their behalf which in aggregate exceed one year's emoluments of such officer or servant.

For the purpose of this subsection –

"unsecured advances or unsecured credit facilities" means advances or credit facilities granted without security, or, in respect of any advance or credit facility granted with security, any part thereof which at any time exceeds four-fifths of the market value of the assets constituting such security.

(5A) Subject to subsection (5B), and notwithstanding any provision in this Act to the contrary, no loan or financial facility whatsoever shall be made available or granted to a member either directly or indirectly by the Bank.

(5B) Where a member receives a loan or financial facility contrary to subsection (5A) that member will be deemed to have resigned and the vacancy thereby created must be filled in accordance with section 4(3).

(5C) Where a person who is appointed to the Board has a loan or financial facility with the Bank then that member must discharge that loan or terminate the facility within 12 months of the date of that person's appointment or resign from office.

(6) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding VT ten million or to imprisonment for a term not exceeding 5 years, or to both such fine and imprisonment.

(7) For the purposes of this section –

"holding company" means a holding company as defined by section 158 of the Companies Act [Cap. 191];

"individual" means a natural person and shall not include a body of persons, corporate or unincorporated.

31. Interest on deposits

(1) Subject to the provisions of this Act and such conditions (if any) as the Board may from time to time determine, the Managing Director shall determine the rates of interest payable to the depositors with the Bank and different rates may be determined according to the amount standing to the credit of a depositor, or to different classes of depositors.

(2) The Managing Director may determine that interest shall not be payable in respect of so much of the amount standing to the credit of a depositor as either exceeds or is less than an amount fixed for this purpose.

32. Interest on loans, advances, credits, etc., made by the Bank

(1) Subject to the provisions of this Act and such conditions (if any) as the Board may from time to time determine, the Managing Director shall determine the rates of interest to be charged or applied in respect of any loan, advances, credit or credit facility of whatever description made by the Bank to any individual, firm, institution, body, group or association (whether incorporated or not) or company.

(2) Without in any way derogating from the generality of the provisions of subsection (1), the Managing Director may determine that different rates of interest or, as the case may be, no interest, will be charged or applied in respect of different classes of loans, advances, credits or credit facilities made by the Bank in accordance with the provisions of this Act.

33. Unclaimed deposits

(1) Where, in respect of a depositor's account (not being an account in the name of an infant) there has not, for a period of not less than 7 years, been any transaction upon the account by deposit or withdrawal and the pass book has not been presented to the Bank, all moneys standing to the credit of the account may be credited to a fund to be called the Depositors' Unclaimed Fund and shall thereupon cease to bear interest.

(2) The Bank may, on being satisfied that a person is entitled to money credited to the Depositors' Unclaimed Fund, pay the money to that person.

(3) All moneys in respect of which a claim is not established within 10 years after having been credited to the Depositors' Unclaimed Fund shall cease to be claimable and shall become the absolute property of the Bank, but the Bank may allow any claim after the expiration of that period if it is satisfied that special reasons exist for the payment of the claim.

(4) A list of the accounts in the Depositors' Unclaimed Fund shall be published periodically but not less than once every year at such times and places and in such manner as the Board shall determine.

PART 6 – ACCOUNTS, AUDIT AND REPORTS

34. Financial year

The financial year of the Bank shall be the same as the financial year of the Government.

35. Audit

(1) The accounts of the Bank shall be audited annually by duly qualified auditors appointed by the Board with the written approval of the Minister.

(2) Without prejudice to the provisions of subsection (1) the Minister may at any time request the Auditor-General or the Reserve Bank of Vanuatu to examine and report on the accounts of the Bank or any aspect of the Bank's operations and the Bank shall provide the Auditor-General or the Reserve Bank of Vanuatu, at the case may be, with all necessary and proper facilities for such an examination.

36. Publication of accounts and annual report

(1) The Bank shall, within four months after the end of each financial year, cause to be made and transmit to the Minister –

(a) a report of the operations of the Bank during that year; and

(b) a copy of the annual statement of accounts of the Bank certified by the auditors appointed under section 35(1).

(2) The Minister shall as soon as practicable after their receipt –

(a) cause a copy of the report and annual statement of accounts to be laid before Parliament; and

(b) cause a copy of the annual account to be published in the Gazette.

(3) The Bank shall as soon as practicable after the last working day in March, June and September of each year make up a statement showing its assets and liabilities at the close of business on that day and transmit such statement to the Minister.

PART 7 – MISCELLANEOUS

36A. Guarantee by Government

The repayment of all moneys deposited in the Bank together with such interest if any as may be due thereon, is guaranteed by the Government and accordingly, if at any time the assets of the Bank are insufficient to pay or meet the lawful claims of every depositor, the Minister shall cause such deficiency to be paid or met out of the Public Fund:

Provided that nothing in this section shall be construed as enabling any person having any claim against the Bank or on its funds to institute proceedings in respect thereof against the Government.

For the purposes of this section "Public Fund" means the Public Fund established under the Public Finance and Economic Management Act [Cap. 244].

37. Offences relating to secrecy

(1) Except for the purposes of the performance of his duties or the exercise of his functions or when lawfully required to do so by any Court in Vanuatu or under the provision of any law in Vanuatu, no member of the Board, including an alternate member where applicable, nor any officer or servant of the Bank shall disclose to any person any information relating to the affairs of the Bank or relating to the account of any customer of the Bank.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding VT one million or to imprisonment for a term not exceeding four years, or to both such fine and imprisonment.

38. Exemption from banking laws

(1) The Bank shall not be subject to any of the provisions of law for the time being in force in relation to banks or for financial institutions and banking.

(2) Notwithstanding the provisions of subsection (1) and subject to the other provisions of this Act, every requirement, decision or order made by the Reserve Bank of Vanuatu in pursuance of its functions under the Reserve Bank of Vanuatu Act [Cap. 125], as amended, shall, if such requirement, decision or order is applicable to all licensed financial institutions carrying on banking business, apply to the Bank.

Table of Amendments

Name of Act	*Amended by Act 12 of 1992*
1	*Amended by Act 16 of 1998*
3(1)(b)	*Substituted by Act 12 of 1992*
3(1)(ba)	*Inserted by Act 12 of 1992*
3(1)(z)	*Inserted by Act 22 of 1998*
3(3)	*Substituted by Act 16 of 1998*
4(3)	*Substituted by Act 16 of 1998*
4(3)(b)	*Substituted by Act 13 of 2001*
4(3A)	*Inserted by Act 16 of 1998*
4(4)	*Substituted by Act 16 of 1998*
4(8)	*Inserted by Act 16 of 1998*
5	*Substituted by Act 16 of 1998*
13(1)	*Amended by Act 12 of 1992*
13	*Substituted by Act 16 of 1998*
15(4)	*Inserted by Act 16 of 1998*
16(1)	*Amended by Act 16 of 1998*
16(3)	*Repealed by Act 16 of 1998*
19(2)	*Inserted by Act 16 of 1998*
21(1)	*Substituted by Act 16 of 1998*
21(2)	*Amended by Act 16 of 1998*
21(7)	*Substituted by Act 16 of 1998*
21(8)	*Inserted by Act 16 of 1998*
29(1)	*Substituted by Act 12 of 1992*
30(5A)-(5C)	*Inserted by Act 16 of 1998*
36A	*Inserted by Act 12 of 1992*
Throughout	*Substituted "Managing Director" for "General Manager"*