Commencement: 31 July 1998

CHAPTER 247

VALUE ADDED TAX

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Act 12 of 1998
Act 24 of 1998
Act 5 of 2000
Act 45 of 2000
Act 28 of 2001
Act 28 of 2002
Act 30 of 2003
Act 6 of 2004
Act 20 of 2005
Act 47 of 2005
Act 39 of 2006
Act 3 of 2007
Act 44 of 2009
Act 2 of 2010
Act 18 of 2012
Act 34 of 2014
Act 42 of 2017
Act 2 of 2019

ARRANGEMENT OF SECTIONS

PART 1 – PRELIMINARY
1. Purpose
2. Interpretation
2A. Definition of resident of Vanuatu
3. Extended meaning of term “supply’
4. Meaning of term “taxable activity”
5. Time of supply
6. Value of supply
7. Place of supply
8. (*Repealed*)
9. Application of the Act to the State

PART 2 – IMPOSITION OF TAX
10. Imposition of value added tax
11. Rates of tax

PART 3 – REGISTRATION
12. Registration of persons making taxable supplies
12A. Display of registration certificate
13. Cancellation of registration
14. Registered person to notify change of status

PART 4 – RETURNS AND PAYMENTS
15. Taxable periods
16. Returns
17. Accounting basis
18. Tax payable or refund where change in accounting basis
19. Calculation of tax payable or negative amount of
20. Payment of tax
21. Tax invoices
22. Credit and debit notes
23. Bad debts

PART 5 – (*Repealed*)

PART 6 – (*Repealed*)

PART 7 – (*Repealed*)

PART 8 – REFUNDS AND RELIEF
41. Refund of excess credits
42. Interest on refunds of excess credits
43. (*Repealed*)
44. (*Repealed*)

PART 9 – SPECIAL CASES
45. Groups of companies
46. (*Repealed*)
47. Agents and auctioneers
48. (*Repealed*)
49. (*Repealed*)
50. Goods and services acquired before incorporation

PART 10 – (*Repealed*)

PART 11 – GENERAL PROVISIONS
54. Keeping of records
55. Agreement to defeat the intention and application of Act to be void

56. (*Repealed*)
57. (*Repealed*)
58. (*Repealed*)
59. Regulations
60. Display of prices of goods or services for sale

PART 12 – (*Repealed*)

PART 13 – TRANSITIONAL PROVISIONS AND REPEALS
69. Effect on supply price of 1998 introduction of tax
70. Deductions for customs duty
71. Regard to customs duty credit and duty reductions in prices
72. Registration of persons liable to be registered on 1 August 1998
73. Supplies prior to 1 August 1998
74. Repeals of and consequential amendments to other Acts

SCHEDULE 1 – Exempt supplies
SCHEDULE 2 – Exempt importations
SCHEDULE 3 – Zero-rated supplies
SCHEDULE 4 – Enactments repealed or amended

VALUE ADDED TAX

An Act to impose value added tax which will provide a more equitable taxation system and to provide for its collection.

PART 1 – PRELIMINARY

1. Purpose

An Act to impose value added tax and to provide for its collection.

2. Interpretation

(1) In this Act, unless the context otherwise requires –

agreement for hire means an agreement for the bailment of goods for hire but does not include –

(a) an agreement under which property in the goods passes, or is expressly contemplated to pass, to the bailee; or

(b) a hire purchase agreement;

approved aid project and **approved project** means a project entered into with the consent of the Government;

approved form has the same meaning as under the Tax Administration Act No. 37 of 2018;

associate has the same meaning as in the Tax Administration Act No. 37 of 2018;

consideration includes all forms of consideration but does not include an unconditional gift;

credit note means a document provided under section 22(3)(a) of this Act;

customs duty means customs duties and other charges imposed under the Import Duties (Consolidation) Act [Cap. 91];

debit note means a document provided under section 22(3)(b) of this Act;

Department means the Department of Customs and Inland Revenue;

Director means the Director of the Department of Customs and Inland Revenue;

excise tax means the excise tax imposed under the Excise Act [Cap. 290];

exempt supply means a supply of goods or services in Vanuatu which is exempt from tax under section 10(3)(a) and Schedule 1;

going concern, in relation to a supplier and recipient, means the situation where:

(a) there is a supply of taxable activity, or part of a taxable activity where that part is capable of separate operation; and

(b) all of the goods and services that are necessary for the continued operation of that taxable activity or that part of a taxable activity are supplied to the recipient; and

(c) the supplier carries on, or is to carry on, that taxable activity or that part of a taxable activity up to the time of its transfer to the recipient;

goods means all kinds of real or personal property, but does not include choses in action or money;

invoice means a document notifying an obligation to make payment;

International Organisation means a body where 2 or more States or Governments are members, and does not include Non-Governmental Organisations;

local authority includes any municipality established under the Municipalities Act [Cap. 126] and any Local Government Council established under the Decentralization Act [Cap. 230];

Minister means the Minister of the State responsible for Finance;

money includes currency, promissory notes and bills of exchange of Vanuatu or any other country; but does not include a mere collector's piece, investment article or item of numismatic interest;

non-profit body means a religious, charitable or other organisation which is carried on other than for the purposes of profit or gain to owners or members of the body and which is prevented by its constitution from making any distribution to owners or members of the body;

open market value, in respect of a supply of goods or services, means the consideration in money which the supply would generally fetch if supplied in similar circumstances at that date in Vanuatu in a supply freely offered and made between persons who are not associates, and includes any value added tax payable under this Act in respect of the supply;

person has the same meaning as in the Tax Administration Act No. 37 of 2018;

recipient, in relation to any supply of goods and services, means the person receiving the supply;

records includes books of account (whether manual, mechanical or electronic) and tax invoices, invoices, credit notes, debit notes and such other documents as are necessary to verify the entries in the books of account including –

(a) a record of all goods and services supplied by or to the registered person showing the goods and services, and the suppliers or their agents, in sufficient detail to enable the goods and services and the suppliers or their agents to be readily identified by the Director; and

(b) the system and programme documentation which describes the accounting system used;

recyclable materials includes:

(a) raw or processed materials that can be reprocessed into products, materials or substances whether for the original or other purposes; and

(b) scrap metal;

registered person means a person who is registered under Part 3 or who is liable to be so registered;

registration threshold amount means the amount applying under section 12;

scrap metal means any recyclable object that has a metallic content and has a resale value;

second hand goods does not include any of the following:

(a) livestock; or

(b) land; or

(c) recyclable materials;

services means any thing which is not goods or money;

State means the Republic of Vanuatu;

supplier, in relation to any supply of goods and services, means the person making the supply;

supply includes all forms of supply and the extended meanings in section 3 of this Act; and "supplies", "supplier" and "supplied" have corresponding meanings;

tax invoice means a document provided under section 21;

taxable period, in relation to a registered person, means a taxable period determined under section 15;

taxable supply means a supply of goods or services in Vanuatu which is charged with value added tax under Part 11, including where the rate of tax is 0%;

taxpayer means any person liable for any tax hereunder;

unconditional gift means a payment voluntarily made to any non-profit body for the carrying on or carrying out of the purposes of that non-profit body and in respect of which no identifiable direct valuable benefit arises or may arise in the form of a supply of goods and services to the person making that payment, or any other person where that person and that other person are associates; but does not include any payment made by the State or an instrument of the State.

(2) For the purposes of this Act, all amounts of money are to be expressed in terms of Vanuatu currency, and if any such amount is consideration in money for supply, that amount is to be expressed in terms of Vanuatu currency as at the time of that supply.

2A. Definition of resident of Vanuatu

(1) For the purposes of this Act:

resident of Vanuatu means a resident individual, resident company, resident professional partnership, resident estate, the Government, or a public authority.

(2) For the purposes of subsection (1):

resident company means a company that:

(a) is incorporated, registered, or otherwise created in Vanuatu; or

(b) is managed and controlled in Vanuatu;

resident estate means the estate of an individual who was a resident individual at the time of death;

resident professional partnership means a partnership that:

(a) is formed in Vanuatu; or

(b) is managed and controlled in Vanuatu.

(3) For the purposes of subsection (2), **resident individual** means an individual who:

(a) has his or her home in Vanuatu during the year; or

(b) is present in Vanuatu for a period of, or periods amounting in aggregate to, 183 days in any 12 months period commencing or ending in the calendar year; or

(c) is a citizen of Vanuatu who is an officer or employee of the Government or a public authority.

(4) In addition to subsection (2):

(a) an individual who:

(i) is a resident individual for the current calendar year; and

(ii) was not a resident individual for the preceding calendar year,

is a resident individual in the current calendar year only for the period commencing on the day on which the individual was first present in Vanuatu; and

(b) an individual who:

(i) is a resident individual for the current calendar year; and

(ii) who is not a resident individual for the following calendar year,

is treated as a resident individual in the calendar year only for the period ending on the last day on which the individual was present in Vanuatu.

3. Extended meaning of term "supply"

(1) If goods or services acquired or produced by a registered person in the course of carrying on a taxable activity are supplied by a creditor in satisfaction of the registered person's debt, the goods or services are to be treated as if supplied by the registered person in the course of the taxable activity.

(2) If a payment in the nature of a grant or subsidy is made by the State to a person in respect of the person's taxable activity, the payment is to be treated as consideration for the supply of goods or services by the person in Vanuatu in the course of the person's taxable activity.

(3) If a person ceases to be a registered person, goods and services then forming part of the assets of a taxable activity of the person are to be treated as if supplied by the person in the course of the taxable activity immediately before the cessation of registration.

(3A) Subsection (3) does not apply in respect of any goods admitted as a temporary import under clause X.43 of Schedule 2, or clause X.65 of Schedule 2, of the Import Duties [Consolidation] Act [Cap. 91] for use in an approved aid project if the Director is satisfied that those goods have been exported from Vanuatu by the registered person.

(4) An indemnity payment received by a registered person under a contract of insurance will be treated as if it were consideration received for a supply of services made on the date of receipt in the course of the registered person's taxable activity, if and to the extent that –

(a) The supply of the insurance was a taxable supply by the insurer;

(b) The loss of the registered person was incurred in the course of the registered person's taxable activity; and

(c) The payment is not to indemnify the registered person for loss of employment services earnings.

(5) If a person pays an amount of money to participate in lotteries or any other legal game of chance, the money paid is to be treated as consideration for a supply of services by the person conducting the game of chance.

(6) If a person pays to a casino an amount of money –

(a) to purchase a chip or otherwise to participate in a game played in the casino; or

(b) as commission in respect of participation in such a game,

the money paid is to be treated as a supply of services by the casino operator.

(7) For the purposes of this Act, if a supply is charged with tax in part at the standard rate under section 11(1) and in part at zero rate under section 11(2), each such part is to be treated as a separate supply.

(8) For the purposes of this Act, every local authority is deemed to supply goods and services to any person where any amount of municipal tax is payable by that person to that local authority.

(9) Any contract that is a lay-by sale does not constitute a supply of goods and services unless the goods to which the contract relates are delivered the buyer and the property therein is transferred to the buyer:

Provided that a supply of services will, in respect of any such contract, be deemed to take place where –

(a) a lay-by sale is cancelled; and

(b) the seller either –

(i) retains any amount paid to the seller to recoup that seller's selling costs in respect of the lay-by sale; or

(ii) recovers any amount (including, or in addition to, the amount referred in subparagraph (i)) from the buyer.

(10) Subject to subsection (3), to the extent that goods and services acquired by a registered person for the principal purposes of making taxable supplies are subsequently applied by that person, or an associate of that person, for a purpose other than that of making taxable supplies, they shall be treated as being supplied by that person in the course of that taxable activity to the extent that they are so applied.

(11) Subject to subsection (12), if goods or services acquired or produced by a registered person in the course of carrying on a taxable activity are supplied to an employee of the registered person, or an associate of an employee of that registered person, for consideration that is less than the cost of those goods or services to the registered person, the goods or services are to be treated as if supplied by the registered person in the course of the registered person's taxable activity.

(12) Subsection (11) does not apply in respect of any goods or services if:

(a) the goods or services are consumed as part of and during the hours of the employee's employment duties; or

(b) the Director considers that the supply of those goods or services provides a direct benefit to the taxable activity carried on by the registered person.

4. Meaning of term "taxable activity"

(1) For the purposes of this Act, the term "taxable activity" means any activity (personal, professional, corporate or otherwise) carried on continuously or regularly and involving the supply of goods or services to any other person for a consideration.

(2) Without limiting subsection (1), the term "taxable activity" includes any activity referred to in subsection (1) carried on –

(a) without the intention of making a profit; or

(b) by the State or an instrument of the State; or

(c) by an association or club.

(3) Notwithstanding subsections (1) and (2), the term "taxable activity" does not include –

(a) any activity carried on by a natural person essentially as private recreation or a hobby; or

(ab) any activity carried on by a company registered under the International Companies Act [Cap. 222]; or

(b) any engagement, occupation, or employment under any contract of service or as a director of a company:

Provided that, where any person in carrying on any taxable activity, accepts an office, any services supplied by that person as the holder of that office shall be deemed to be supplied in the course or furtherance of that taxable activity; or

(c) Any activity to the extent to which it involves making exempt supplies.

(4) Anything done in connection with the commencement or termination of a taxable activity, including its supply as a going concern, is to be treated as if done in the course of the taxable activity.

5. Time of supply

(1) Subject to this Act and in particular the following subsections of this section, for the purposes of this Act a supply of goods or services is to be treated as taking place at the earliest of the times –

(a) an invoice is issued by the supplier or recipient in respect of the supply;

(b) a payment is received by the supplier in respect of the supply.

(2) If a supply is treated as being made by a casino operator under section 3(6), it is to be treated as taking place at the time a casino count takes place. For the purposes of this section, "casino count", in relation to a casino, means a count of money or money's worth paid for the right to participate in gaming in that casino.

(3) If a supply is treated as taking place under section 3(5) (which relates to games of chance), the time of supply is to be treated as being the date on which the first drawing or determination of a result commences.

(4) If the supply is for consideration received by the supplier in the form of a coin or token inserted into a machine, the supply is to be treated as taking place at the time the coin or token is removed from the machine.

(5) If –

(a) goods are supplied under an agreement for hire; or

(b) services are supplied under an agreement or Act which provides for periodic payments,

the goods or services are to be treated as being supplied successively, when and to the extent that a payment is due or is received (whichever is earlier).

(6) If goods or services are supplied progressively or periodically under an agreement or Act which provides for consideration in instalments by reference to the progressive or periodic supplies, the goods or services are to be treated as being supplied successively, when and to the extent that a payment is due, a payment is received or an invoice is issued relating only to that payment (whichever is the earliest).

(7) If goods or services are supplied under a hire purchase agreement, the time of supply is the time the agreement is entered into.

(8) If goods are delivered by a supplier at a time when the consideration for the supply cannot finally be determined, the supply is to be treated as taking place successively when and to the extent that a payment is due, a payment is received or an invoice relating only to the payment is issued (whichever is the earliest).

6. Value of supply

(1) Subject to this section, for the purposes of this Act, the value of a supply of goods or services will be the aggregate of –

(a) the consideration in money for the supply, if any; and

(b) the open market value of the consideration for the supply which is not in money, if any –

reduced by the amount of value added tax charged to the supplier in respect of the supply.

(2) If the parties to a supply are associates and the relationship has resulted in a reduction in the consideration for the supply to an amount below the open market value, the consideration will be deemed to be equal to the open market value for the supply.

(3) Subsection (2) of this section will not apply to any supply to a person who is entitled under section 19(4) to a deduction for the whole of the tax charged in respect of the supply.

(4) If goods or services are deemed by section 3(3) or 3(10) or 3(11) to be supplied, the consideration in money for the supply is to be treated as being the lesser of –

(a) the cost of the goods or services (inclusive of any tax charged in respect of the acquisition) to the supplier; and

(b) the open market value of the supply.

(5) If a supply of second-hand goods to a non-resident is not zero-rated due only to the proviso to paragraph 1 of Schedule 3, the consideration in money for the supply will be treated as being equal to the purchase price of the goods to the supplier.

(6) If a supply is treated as being made by a casino operator under section 3(6), the consideration in money for the supply will be equal to the amount paid to purchase or participate less any amount paid out by the casino as winnings.

(7) If a supply of services is deemed to be made under section 3(5), (which relates to games of chance), the consideration in money for the supply will be treated as being the portion of the amount paid to participate as is equal to the portion of the total proceeds of the game which is left after deducting all amounts paid out as prizes.

(8) If a right to receive goods or services for a monetary value stated on a token, stamp (not being a postage stamp) or voucher is granted for consideration in money, the supply will be disregarded except to the extent (if any) that the consideration exceeds the monetary value.

(9) If a taxable supply is not the only matter to which a consideration relates, the supply will be treated as being for such consideration as is properly attributed to the taxable supply.

(10) Subject to the preceding subsections of this section, if a supply is made for no consideration, the value of the supply is nil.

7. Place of supply

(1) For the purposes of this Act, goods and services are deemed to be supplied in Vanuatu if the supplier is a resident of Vanuatu or is a non-resident carrying on business in Vanuatu through a fixed place of business, and are deemed to be supplied outside of Vanuatu if the supplier is a non-resident of Vanuatu that is not carrying on business in Vanuatu through a fixed place of business.

(2) Subject to subsection (3), goods and services are deemed to be supplied in Vanuatu if the supplier is a non-resident of Vanuatu that is not carrying on business in Vanuatu through a fixed place of business and either:

(a) the goods are in Vanuatu at the time of supply; or

(b) the services are physically performed in Vanuatu by any person who is in Vanuatu at the time the services are performed.

(3) If goods or services that are deemed to be supplied in Vanuatu pursuant to subsection (2) are supplied to a registered person who is entitled to a deduction under section 19(4) in respect of that supply, those goods or services are deemed to be supplied outside of Vanuatu unless the supplier and recipient agree that this subsection does not apply to that supply.

8. (*Repealed*)

9. Application of the Act to the State

(1) Subject to this section, this Act will apply to the State, or an agency of the State, if liable to be a registered person and carrying on a taxable activity.

(2) Each instrument or agency of the State will be treated as a separate person for the purposes of liability to tax under this Act.

PART 2 – IMPOSITION OF TAX

10. Imposition of value added tax

(1) Subject to the provisions of this Act, there will be assessed, levied and paid for the use of the State a tax herein referred to as value added tax.

(2) Subject to the provisions of this Act, value added tax will be payable by –

(a) any registered person on account of any supply of goods or services made in Vanuatu in the course of carrying on a taxable activity, with the amount of tax measured by reference to the value of the supply; and

(b) any person imparting goods into Vanuatu for home consumption, with the amount of tax measured by reference to the aggregate of the value of the goods for the purposes of customs duty determined under the Import Duties [Consolidation] Act [Cap. 91] and the items specified in section 11(1)(b).

(3) Notwithstanding subsection (2), no value added tax will be payable –

(a) in respect of a supply of goods or services in Vanuatu which is one of the exempt supplies listed in Schedule 1, unless the supply would (but for this paragraph) be subject to tax at a 0% rate under section 11(2);

(b) In respect of an importation of goods into Vanuatu which is one of the exempt importations listed in Schedule 2.

(4) The provisions of Parts 5, 6, 7 and 8 are not applicable to tax payable on importation under section 10(2)(b) and, subject to subsection (5), that tax will be collected and paid as if it were a customs duty levied on the importation of goods under the Import Duties [Consolidation] Act [Cap. 91].

(5) The provisions of the Import Duties [Consolidation] Act [Cap. 91] that provide for the refund of duty in certain circumstances will:

(a) in respect of the valued added tax on goods that are temporary exports that are re-imported, by the same person as the person who exported them from Vanuatu, apply only if, at the time of their export from Vanuatu, those goods were not part of –

(i) a supply of goods charged with tax at the rate of zero percent pursuant to section 11; or

(ii) a supply of goods, made before 1 August 1998, that would have been charged with tax at the rate of zero percent pursuant to section 11 if the supply of those goods had taken place on 1 August 1998; and

(b) In respect of the value added tax on any other goods, not apply in respect of goods imported by a registered person for the purpose of carrying on that person's taxable activity.

11. Rates of tax

(1) The rate of value added tax will be 15 % of –

(a) except in the case of importation, the value of the supply;

(b) in the case of importation, the aggregate of –

(i) the value of the goods for the purposes of customs duty; and

(ii) the amount of customs duty payable; and

(iia) the amount of excise tax payable; and

(iii) the amount paid or payable to transport the goods to Vanuatu and to insure the goods for such transport,

unless subsection (2) applies.

(2) Notwithstanding subsection (1), the rate of tax will be 0% of the value of the supply in the case of a supply in Vanuatu by a registered person which is one of the zero-rated supplies listed in Schedule 3.

PART 3 – REGISTRATION

12. Registration of persons making taxable supplies

(1) Subject to this section, every person who carries on a taxable activity and is not already registered becomes liable to be registered under this Act –

(a) at the end of any month if the total value of supplies made in Vanuatu by the person in the year which ends with that end of that month in the course of carrying on taxable activities has exceeded four million vatu; or

(b) at the start of any month if there are reasonable grounds for believing that the total value of supplies made in Vanuatu by the person in the year which starts at the start of that month in the course of carrying on taxable activities will exceed the registration threshold amount.

(2) In determining whether the total value of supplies exceeds the registration threshold amount –

(a) the value of exempt supplies will be disregarded; and

(b) the value of supplies will be disregarded if and to the extent that the Director is satisfied that the supply is solely as a consequence of –

(i) any cessation of, or substantial and permanent reduction in the size or scale of, a taxable activity carried on by the person; or

(ii) the replacement of any plant or other capital asset used in any taxable activity carried on by the person.

(3) Every person who, under subsection (1) becomes liable to be registered must apply to the Director in the approved form for registration under this Act within 21 days of

becoming so liable and must provide the Director with such other information as the Director may consider relevant.

(4) Notwithstanding subsections (1) and (3), every person who satisfies the Director that –

(a) the person is carrying on a taxable activity; or

(b) the person intends to carry on a taxable activity from a specified date,

may apply to the Director in the approved form for registration under this Act, and must provide the Director with such other information as the Director may consider relevant.

(5) If a person has applied for registration under subsection (3) or subsection (4) and the Director is satisfied that the person is eligible to be registered under this Act, the Director may issue a certificate of registration to the person with effect from such date as the Director determines.

(5A) The certificate of registration must be in the approved form.

(6) If a person has not applied for registration under subsection (3) and the Director is satisfied that the person is liable to be registered under this Act, the person will be deemed to be registered for the purposes of this Act with effect from the date on which the person first became liable to be registered under this Act (unless the Director determines that it would be equitable for the person to be deemed to be registered from a later date stipulated by the Director).

(7) Section 6 applies to determine the value of supplies for the purposes of this section except that no regard will be had to any amount of consideration payable in order to recover tax charged in respect of the supplies.

(8) A registered person who receives a supply of goods or services must provide details of that supply to the Director within one month after receiving the supply if:

(a) the registered person has not received a tax invoice from the supplier of the goods or services within 28 days of requesting such a tax invoice; and

(b) the registered person has reasonable grounds for believing that the total value of all supplies made by that supplier will exceed the registration threshold amount in the year the supplies were made.

12A. Display of registration certificate

A person who is issued with a certificate of registration under subsection 12(5) must:

(a) display the certificate in a prominent place on the premises to which it relates; and

(b) produce the certificate for inspection by a person authorized under this Act at any hour in which such premises is normally open for business upon the request of the person.

13. Cancellation of registration

(1) A registered person will cease to be liable to be registered at any time if the total value of supplies to be made in Vanuatu by the person in the year which starts at that time will be below the registration threshold amount.

(2) If a registered person ceases to be liable to be registered, the person may request the Director in writing to cancel the person's registration.

(3) If the Director is satisfied that a registered person who has applied for cancellation is no longer liable to be registered, the Director will cancel the person's registration with

effect from the last day of the taxable period in which the application for cancellation was made (or with effect from such other date as the Director may stipulate).

(4) If the Director is satisfied that a registered person is no longer liable to be registered and the person has not applied for cancellation, the Director may nevertheless cancel the person's registration with effect from the last day of the taxable period in which the Director gives notice to the person of the cancellation.

(5) The obligation and liabilities under this Act of any person in respect of anything done, or omitted to be done, by that person while that person is a registered person will not be affected by the fact that the person ceases to be a registered person or by the fact that the Director has cancelled the person's registration.

14. Registered person to notify change of status

Every registered person will within 21 days notify the Director in writing of –

(a) any change in the name, address or nature of the principal taxable activity or activities of the registered person;

(b) any change in the address from which, or the name in which, a taxable activity is carried on by the registered person;

(c) any change where the registered person, being a member of a group of companies under section 45 of this Act, ceases to be eligible to be a member of the group.

PART 4 – RETURNS AND PAYMENTS

15. Taxable periods

(1) Each registered person will be placed by the Director in one of the following categories for the purposes of this Act –

(a) Category A, with taxable periods of one month ending on the last day of each month in each year; and

(b) Category B, with taxable periods of three months ending on the last day of such months in any year as may be determined by the Director, provided that for the first taxable period that ends after 1 August 1998, the Director may stipulate a taxable period of two months.

(2) Each registered person who is not placed in Category B under subsection (3) will be placed by the Director in Category A.

(3) The Director may place a registered person in Category B only if the person has made written application and the total value of that person's taxable supplies has not, in the twelve months ending with the last day of any month, exceeded eight million vatu or such other amount as the Minister may, from time to time, declare by order.

(4) For the purposes of subsection (3) of this section, the total value of a registered person's taxable supplies will be deemed not to have exceeded any amount specified in or under that subsection where that total value exceeds any such amount solely as a consequence of –

(a) any cessation of, or any substantial and permanent reduction in the size or scale of, any taxable activity carried on by that registered person; or

(b) the replacement of any plant or other capital asset used in any taxable activity carried on by that registered person.

(5) Subject to subsection (3), the Director may from time to time direct that a registered person change from category A to category B or, as the case may be, category B to

category A and the change will take effect immediately after the end of the taxable period in which the Director notifies the registered person of the change.

16. Returns

(1) Every registered person will furnish to the Director, in the approved form, a tax return for each taxable period showing the amount of tax payable in respect of the taxable period as calculated under section 19:

(a) for any taxable period ending on 30 November, by the 5th day of January following the taxable period, unless that day is not a working day in which case the return must be furnished by the working day which immediately succeeds the 5th day; and

(b) for any other taxable period by the 27th day of the month following the taxable period, unless that day is not a working day in which case the return must be furnished by the working day which immediately succeeds the 27th day.

(2) If goods are treated as being supplied under section 3(1) (which relates to a creditor selling goods of a registered person in satisfaction of a debt), the creditor selling the goods (whether or not a registered person) must furnish a special return, in the approved form, by the 27th day of the month following the taxable period in which the supply occurs and –

(a) the creditor and the debtor must. exclude the supply and any tax charged on the supply from any other return; and

(b) the tax charged will be treated as tax payable under this Act by the creditor.

17. Accounting basis

(1) A registered person may elect to account for tax payable on either an invoice basis or a payments basis and will notify the Director of the election in the approved form.

(2) In any case where a person fails to elect a basis for accounting for tax payable under subsection (1), the registered person will be deemed to have elected to account for tax payable on a payments basis.

(3) The Director may, on application in writing by a registered person, approve a change in the basis for accounting for tax payable by the registered person and the change will take effect from the beginning of the next taxable period that follows the receipt of the application by the Director or of such later taxable period as the Director approves.

(4) Where a registered person changes the basis for accounting for tax payable under subsection (3), the registered person will:

(a) prepare a list of creditors of the registered person in relation to that person's taxable activity, showing the amounts due by that person as at the last day of the taxable period preceding that in which the change takes effect; and

(b) prepare a list of debtors of the registered person in relation to that person's taxable activity, showing the amounts due to that person as at the last day of the taxable period preceding that in which the change takes effect.

(5) The particulars required to be furnished under subsection (4) will be furnished to the Director not later than the last day for furnishing a return under section 16 for the taxable period preceding that in which the change takes effect.

18. Tax payable or refund where change in accounting basis

(1) Every registered person whose accounting basis changes under section 17 will, not later than the last day allowed under section 17(5) for furnishing particulars in respect of the change, pay the Director the tax payable, if any, as determined under this section.

(2) If a registered person changes from an invoice basis to a payments basis of accounting, the tax payable will be an amount determined in accordance with the following formula:

a - b

where –

a is the aggregate amount able to be deducted under section 19(4) in relation to the amounts due that are required to be shown in the list of creditors required to be prepared by the person under section 17; and

b is the aggregate amount of the tax payable under section 19(3) in relation to the amounts due that are required to be shown in the list of debtors to be prepared by the person under section 17.

(3) If a registered person changes from a payments basis to an invoice basis of accounting, the tax payable will be an amount determined in accordance with the following formula:

a - b

where –

a is the aggregate amount of the tax payable under section 19(3) in relation to the amounts due that are required to be shown in the list of debtors to be prepared by the person under section 17; and

b is the aggregate amount able to be deducted under section 19(4) in relation to the amounts due that are required to be shown in the list of creditors to be prepared by the person under section 17.

(4) If the amount determined under subsection (2) or (3) is a negative amount, the amount will be applied in accordance with subsection 45(5) of the Tax Administration Act No. 37 of 2018.

19. Calculation of tax payable or negative amount of

(1) Every registered person will calculate the amount of tax payable by, or negative amount of, the registered person in respect of each taxable period under the rules in this section.

(2) The tax payable or negative amount is calculated by –

(a) adding the amounts referred to in subsection (3); and

(b) deducting the amounts referred to in subsection (4) but subject to subsections (5), (6) and (7).

(3) The amounts to be added are –

(a) in respect of supplies made by the registered person –

(i) if the registered person accounts for tax on an invoice basis, all amounts of tax payable in respect of supplies where the time of supply falls during the taxable period; and

(ii) if the registered person accounts for tax on a payments basis, all amounts of tax payable in respect of supplies to the extent that payment for the supply has been received during the taxable period; and

(b) all amounts to be added under section 22(2) or (7) (which relate to subsequent period adjustments) or section 23(2) (which relates to recovered bad debts).

(4) The amounts able to be deducted are –

(a) all amounts of tax payable by other registered persons in respect of supplies made to the first registered person –

(i) if the first registered person accounts for tax on an invoice basis, where the time of supply falls during the taxable period; and

(ii) if the first registered person accounts for tax on a payments basis, to the extent that a payment in respect of the supply has been made during the taxable period,

but subject to subsections (5), (6) and (7); and

(b) all amounts of tax payable under section 10(2)(b) by the registered person in respect of the importation of goods –

(i) if the registered person accounts for tax on an invoice basis, where the tax is invoiced under the Import Duties (Consolidation) Act [Cap. 91] or paid (whichever is the earlier) during the taxable period; and

(ii) if the registered person accounts for tax on a payments basis, to the extent that payment of the tax is made during the taxable period,

but subject to subsections (5) and (6); and

(c) amounts equal to the consideration in money for all supplies of second-hand goods to the registered person divided by 7.6667 –

(i) if the registered person accounts for tax on an invoice basis, the time of supply falls during the taxable period; and

(ii) If the registered person accounts for tax on payments basis, to the extent the consideration is paid during the taxable period; and

(iii) the place of supply is in Vanuatu; and

(iv) the goods are not supplied by a supplier who is a non-resident of Vanuatu carrying on business in Vanuatu through a fixed place of business and who has previously supplied the goods to a registered person who has entered the goods for home consumption under the Import Duties (Consolidation) Act [Cap. 91],

and subject to subsections (5) and (6) of this section; and

(d) all amounts deductible under section 22(2) or (8) (which relate to subsequent period adjustments) or section 23(1) (which relates to bad debts); and

(e) amounts equal to the amount of any payment made during the taxable period by the registered person to indemnify another person under a contract of insurance divided by 7.6667 but only if –

(i) the supply of the contract of insurance is a taxable supply; and

(ii) the payment is not in respect of the supply of goods or services to the registered person or importation of goods by the registered person; and

(iii) the supply of the contract of insurance was not subject to tax at the 0% rate in any case where the other person is, at the time of payment, neither a registered person, a resident of Vanuatu or a non-resident of Vanuatu carrying on business in Vanuatu through a fixed place of business; and

(iv) the payment does not result from a supply of goods or services to the other person where the place of supply is outside Vanuatu; and

(v) the payment is not to indemnify the other person for loss of employment services earnings.

(5) An amount to which subsection (4)(a), (4)(b) or (4)(c) refers –

(a) will be wholly deductible if the goods or services are acquired by the registered person wholly for the purposes of making taxable supplies;

(b) if the goods or services are acquired by the registered person partially for the purposes of making taxable supplies, will be deductible only to the extent that the goods or services are acquired for the purposes of making taxable supplies.

(6) In a case to which subsection (5)(b) applies, the extent to which goods or services are acquired for the purposes of making taxable supplies will be determined –

(a) having regard only to the circumstances existing in the taxable period of acquisition or such longer period as the Director considers equitable; and

(b) by the Director, if the extent cannot correctly be determined otherwise.

(7) No deduction will be made for –

(a) an amount referred to in subsection (4)(a) or (4)(d) unless –

(i) a tax invoice provided under section 21 or debit or credit note provided under section 22 in respect of the supply is held by the registered person when the return is filed; or

(ii) none of a tax invoice, credit note or debit note is required to be provided in respect of the supply;

(b) an amount referred to in subsection (4)(c) unless the registered person keeps the records referred to in section 21(6);

(c) an amount referred to in subsection (4)(c) to the extent to which –

(i) the supplier of the second-hand goods and the registered person are associates; and

(ii) consideration for the supply exceeded the open market value of the supply.

(8) A deduction in calculating the tax payable or refund due for a taxable period will also be available if and to the extent that –

(a) a deduction would have been available in an earlier taxable period but for the fact that the registered person did not hold a tax invoice and the registered person holds such a tax invoice at the time the return is filed for the later taxable period;

(b) a deduction could have been claimed in an earlier taxable period but was not in fact included in a return for an earlier taxable period.

(9) For the purposes of subsection (4)(c), the following goods will be deemed to be second-hand goods where the time of supply is the first day of the first taxable period following the registration of the registered person:

(a) goods and services acquired or produced after 1 August 1998 by the person other than for the purposes of making taxable supplies which are subsequently applied in any taxable activity by that person or, where that person is a member of a partnership, by that partnership for the purposes of making taxable supplies; and

(b) goods and services that were previously deemed under section 3(3) to be supplied to the person because the person ceased to be a registered person that are subsequently applied by that person, or by a partnership of which that person is a partner, for the purposes of making taxable supplies:

Provided that the consideration in money for those goods and services will be deemed to be the lesser of –

(c) the cost of those goods and services, including any tax charged or any tax deducted in respect of those goods and services;

(d) the open market value of the supply of those goods and services.

(10) If the calculation in a return produces –

(a) a positive amount, the amount will be tax payable by the registered person under section 20;

(b) a negative amount, the amount will be applied under section 41.

20. Payment of tax

A registered person must pay any tax payable calculated under section 19 for a taxable period by the day on which the return must be filed for the period.

21. Tax invoices

(1) Subject to this section, a registered person making a taxable supply to another registered person must provide the other registered person with a tax invoice within 28 days of the other registered person requesting such a tax invoice.

(2) A recipient of a supply of goods or services who is a registered person may create a document which is treated as a tax invoice provided by the supplier under subsection (1) if –

(a) the document otherwise complies with the requirements of this section; and

(b) the Director has previously granted approval for the issue of such a document by such a recipient; and

(c) the supplier and the recipient agree that the supplier will not issue such a tax invoice; and

(d) the supplier is provided with a copy of the document; and

(e) the words "buyer created tax invoice – VAT approved" are contained on the document in a prominent place.

(3) The tax invoice must contain the particulars specified in the approved form.

(4) A registered person must not provide more than one tax invoice for a taxable supply, unless the other registered person claims to have lost the original, in which case a copy can be provided clearly marked "copy only".

(5) Notwithstanding the preceding subsections, a registered person is not required to provide a tax invoice if –

(a) the consideration in money for the supply does not exceed VT 5,000 (or such greater amount as the Minister may declare by order); or

(b) the Director determines that sufficient records will exist to establish the particulars of the supply and it would be impractical to require issue of a tax invoice.

(6) A registered person who acquires second hand goods under a supply which is not a taxable supply must keep records of the supply showing the particulars specified in the approved form.

(7) Subsection (6) will not apply if the consideration in money for the supply does not exceed VT 5,000 (or such greater amount as the Minister may declare by order).

22. Credit and debit notes

(1) This section applies if, in relation to a supply of goods and services by a registered person –

(a) the supply has been cancelled; or

(b) the nature of the supply has been fundamentally varied or altered; or

(c) the agreed consideration for the supply has been altered; or

(d) all or part of the goods or services have been returned to the registered person,

and the registered person has –

(e) provided a tax invoice in respect of the supply which is incorrect; or

(f) furnished a return for the relevant taxable period which shows an incorrect amount of tax payable or refund due,

as a result of one or more of these events.

(2) If the registered person has accounted for an incorrect amount of tax payable or refund due, –

(a) the registered person will make an adjustment in calculating the tax payable or refund due by the registered person in the return for the taxable period during which it has become apparent that a correction is needed; and

(b) if the tax properly payable by the registered person in respect of the supply exceeds the tax accounted for, the excess is to be treated as tax payable in relation to a taxable supply in the later taxable period and not in the original taxable period; and

(c) if the tax properly payable by the registered person in respect of the supply is less than the tax accounted for, the registered person will make a deduction of the difference under section 19(4) in respect of the later taxable period.

(3) If a tax invoice to which subsection (1)(e) refers has been provided and –

(a) the amount shown as tax payable on the invoice exceeds the correct amount of tax payable, the registered person must provide the recipient with a credit note;

(b) the amount shown as tax payable on the invoice is less than the correct amount payable, the registered person must provide the recipient with a debit note,

containing the particulars specified in the approved form.

(4) A registered person –

(a) must not issue more than one credit note or debit note in respect of the same excess or difference; and

(b) may issue to a recipient a copy of a credit note or debit note if the recipient claims to have lost the original and the copy is clearly marked "copy only"; and

(c) is not required to provide a recipient with a credit note if and to the extent that the excess results from a prompt payment discount which is clearly described on the face of the tax invoice.

(5) If a recipient of a supply who is a registered person has created a document which complies with the requirements of this section in respect of a credit note or debit note in respect of that supply which could have been issued by the supplier, the document will be treated as if issued by the supplier under this section if –

(a) the Director has granted prior approval to the issue of such a document by such a recipient; and

(b) the supplier and the recipient have agreed that the supplier will not issue such a credit note or debit note; and

(c) the supplier does not in fact issue such a credit note or debit note; and

(d) the supplier is provided with a copy of the credit note or debit note.

(6) A registered person is not required to issue a credit note or debit note if the Director determines that sufficient records will exist to establish the particulars of the supply and it would be impractical to require issue of a credit note or debit note.

(7) If a recipient, being a registered person, –

(a) has been issued with a credit note under this section or otherwise knows that a tax invoice held by the recipient is incorrect as a result of one of the events listed in subsection (1); and

(b) has made a deduction under section 19(4) in respect of tax payable on the relevant supply,

an amount equal to any excess of the tax for which a deduction has been made over the tax actually payable is to be treated as tax payable by the recipient in respect of a taxable supply made by the recipient in the taxable period in which the credit note or the knowledge is received.

(8) If a recipient, being a registered person, –

(a) has been issued with a debit note under this section; and

(b) has made a deduction under section 19(4) in respect of the tax payable on the relevant supply,

an amount equal to any excess of the tax actually payable over the tax for which a deduction has been made is to be treated as a deduction available to the recipient under section 19(4) for the taxable period in which the debit note is received.

23. Bad debts

(1) If a registered person –

(a) has made a taxable supply for consideration in money; and

(b) has furnished a return for the taxable period in which the time of supply fell; and

(c) has properly accounted for the tax payable on the supply as required under this Act; and

(d) has written off as a bad debt the whole or part of the consideration in money not paid to the registered person; and

(e) has provided to the Director in an approved form such information as will satisfy the Director that the debt has been properly written off,

the registered person will make a deduction under section 19(4) for that proportion of the tax payable in respect of the supply which the bad debt represents as a proportion of the total consideration for the supply.

(2) If an amount in respect of which a deduction has been made under subsection (1) is subsequently wholly or partly recovered, the portion of the deduction which is equal to the portion which the recovered amount is of the bad debt is to be treated as tax payable in respect of a taxable supply by the registered person during the taxable period in which the recovery takes place.

PART 5 – (*Repealed*)

Sections 24 to 25

PART 6 – (*Repealed*)

Sections 26 to 30

PART 7 – (*Repealed*)

Sections 31 to 40

PART 8 – REFUNDS AND RELIEF

41. Refunds of excess credits

(1) Subject to this section, if a refund is due to a registered person under section 19 (which relates to the calculation of tax payable or refund due), the Director will refund the amount to the registered person not later than 15 working days following the day on which the return of the registered person was received by the Director.

(2) Notwithstanding subsection (1), if the Director is not satisfied with the return made by a registered person and decides that further investigation is required, the Director may withhold payment of the amount otherwise refundable until the later of the date the investigation is completed and the date the registered person has supplied all information requested.

(3) Notwithstanding subsection (1), but subject to the following provisions of this section, if a registered person has, –

(a) in respect of a taxable period, failed to pay the Director in whole or in part any amount of tax payable by the due date for payment for the tax; or

(b) in respect of any obligation imposed under any other Act, failed to pay to the State any amount in whole or in part;

the Director may set off, against that unpaid tax, duty or levy, any amount otherwise refundable to the person under section 19, or any amount of interest payable under section 42, and will treat any amount so set off as a payment received from the registered person.

(4) Notwithstanding subsection (1) but subject to the following subsections of this section, if a registered person has failed to furnish a return for a taxable period, the Director may withhold any amount otherwise refundable under section 19, or any amount of interest payable under section 42, until the registered person has complied with the return filing requirements.

(5) The Director will give notice in writing to the registered person of any action taken under subsections (2), (3) or (4) within the period of 15 working days following the day on which the return showing the refund due was received by the Director.

(6) If the Director requires further information from a registered person in order to investigate a return in respect of a taxable period, the Director will give notice in writing to the registered person –

(a) in respect of an initial request for information in respect of the return, within the period of 15 working days following the day on which the return was received by the Director; and

(b) in relation to subsequent requests for information in respect of a return, within the period of 15 working days following the date of receipt of any information previously requested by the Director.

(7) All money payable by the Director under this Part will be paid without further appropriation than this Act.

42. Interest on refunds of excess credits

(1) In any case where the Director is required by section 41 to refund an amount to a registered person and the Director does not refund the amount within the period of 15 working days following the day upon which the return of the registered person was received by the Director, the Director will pay to the registered person interest on the amount withheld.

(2) Interest payable under this section will be payable at the rate of 15% per annum from the day following the day on which the Director is required under section 41 to refund an amount to the registered person and will be calculated in accordance with the following formula:

$$\frac{a \times b \times c}{365}$$

where:

a is the number of days for which interest is to be paid;

b is the amount of the refund required to be paid under subsection (1); and

c is the rate of interest specified in this subsection.

(3) Notwithstanding anything in this section, no interest will be payable if the amount of interest that, but for this subsection, would be paid is less than VT 1,000.

(4) Notwithstanding anything in this section, interest will not be payable in respect of any period that ends ten working days after –

(a) any period during which the Director is not satisfied with the return made by the registered person and is undertaking further investigation; or

(b) any period in which the Director has requested further information from the registered person in respect of the return and has not received all the information requested; or

(c) any period after the Director has set off under section 41(3) the amount of refund due against tax payable by the registered person; or

(d) any period in which the registered person has failed to furnish a return under this Act for a taxable period.

(5) If the Director is satisfied that the amount of any interest paid to a person under this section is in excess of the proper amount, the Director may recover the amount of the excess in the same manner, with any necessary modifications, as if it were tax payable by the person.

43. (*Repealed*)

44. (*Repealed*)

PART 9 – SPECIAL CASES

45. Groups of companies

(1) For the purposes of this Act, two or more companies, each being a registered person, are eligible to be members of a group of companies in respect of any taxable period if not less than one half of the paid-up capital of each of those companies is held by shareholders in the other or if not less than one half in nominal value of the allotted shares in each of them is held by shareholders in the other.

(2) For the purposes of subsection (1), shares in one company held by another company will for this purpose be deemed to be held by the shareholders in the last mentioned company.

(3) If 2 or more companies apply to be members of a group of companies for the purposes of this section and the Director is satisfied that they are eligible to be members of a group of companies under subsection (1) of this section, they will be members of a group of companies from the beginning of such taxable period as is determined by the Director.

(4) In any application made under subsection (3), one such company will be nominated to be the representative member.

(5) If any companies are members of a group of companies, the representative member may apply to the Director for –

(a) the addition to that group of a further eligible company; or

(b) the exclusion from that group of one of the current members; or

(c) the substitution of another member of the group as the representative member; or

(d) that group of companies to no longer be a group of companies for the purposes of this section,

and the Director will grant the application from the beginning of such taxable period as is determined by the Director.

(6) If any member of a group of companies ceases to be eligible to be a member of the group and the Director becomes aware of that fact, the Director will, by notice in writing given to that member or the representative member, terminate that membership from such date as may be specified in the notice.

(7) For the purposes of this Act, a notice under this Act addressed to the representative member will be deemed to be served on all members of the group.

(8) If any companies form a group of companies for the purposes of this section –

(a) any taxable activity carried on by a member of the group will be deemed to be carried on by the representative member and not to be carried on by any other member of the group; and

(b) subject to the following paragraphs of this subsection, any taxable supply by a member of the group to another member of the group may be disregarded; and

(c) any taxable supply by a member of the group to a person outside the group or from a person outside the group to a member of the group will be deemed to be a taxable supply by or to the representative member; and

(d) any supply of goods and services which is not a taxable supply made by a member of the group will be deemed to be made by the representative member; and

(e) any deductions under section 19(4) otherwise available to a member of the group will be deemed to be available only to the representative member; and

(ea) all members of the group must ensure that they have the same taxable period pursuant to section 15 and the same accounting period pursuant to section 17; and

(f) any obligation on a member of the group, other than the representative member, to file returns under section 16 will be disregarded.

(9) Notwithstanding subsection (8) –

(a) all members of the group will remain liable jointly and severally for any tax payable by the representative member; and

(b) the provisions of section 21 (which relate to tax invoice requirements), section 54 (which relates to the keeping of records) and Part 3 (which relates to registration) will continue to apply to all members of the group.

(10) If the Director is satisfied in relation to 2 or more registered persons (not each being companies) that –

(a) one of them controls each of the others; or

(b) one person controls all of them, or

(c) two or more persons carrying on a taxable activity in partnership control all of them,

the Director may deem those registered persons to be members of a group and the preceding subsections of this section (other than subsections (1) and (2)) will apply as if every reference in the said subsections to –

(d) a group of companies were a reference to that group; and

(e) companies were a reference to the members of the group.

46. (*Repealed*)

47. Agents and auctioneers

(1) Subject to this section, for the purposes of this Act, if an agent makes a supply of goods and services for and on behalf of any other person who is the principal of that agent, a supply will be treated as being made by the principal and not by the agent.

(2) Notwithstanding subsection (1), if the supply is a taxable supply, an agent of a registered person may, notwithstanding anything in this Act, issue a tax invoice or a credit note or a debit note in relation to the supply as if the agent had made the taxable supply and, to the extent that that tax invoice or credit note or debit note relates to the supply, the principal will not also issue the tax invoice or credit note or debit note (as the case may be).

(3) Subject to this section, for the purposes of this Act, if a registered person makes a taxable supply of goods and services to an agent who is acting on behalf of another person who is the principal for the purpose of the supply, the supply will be treated as being made to the principal and not to the agent.

(4) Notwithstanding subsection (3), the agent may nevertheless request to be issued with a tax invoice and the registered person making the supply may issue a tax invoice or a credit note or a debit note as if the supply were made to the agent.

(5) If a tax invoice or a credit note or a debit note in relation to a supply has been issued under this section by an agent or to an agent, the agent will maintain sufficient records to enable the name and address and registration number (if any) of the principal to be ascertained.

(6) Notwithstanding anything in subsection (3) of this section, if a registered person makes a taxable supply (not being a supply which is charged with tax at the rate of 0%) of goods or services to an agent, being a registered person, who is acting for and on behalf of another person who is a principal for the purpose of the supply and –

(a) the principal is a non-resident of Vanuatu or a non-resident carrying on business in Vanuatu through a fixed place of business and is not a registered person; and

(b) the supply is directly in connection with the exportation of goods from Vanuatu or the importation of goods into Vanuatu,

this Act will, if the agent and the principal agree, have effect as if the supply were made to the agent and not to the principal.

48. (*Repealed*)

49. (*Repealed*)

50. Goods and services acquired before incorporation

(1) If –

(a) an amount of tax has been charged under this Act in relation to the acquisition of goods and services for and on behalf of a company or in connection with the incorporation of a company; and

(b) the company becomes a registered person on incorporation; and

(c) the goods and services were acquired prior to incorporation by a person who–

(i) became a member, officer, or employee of the company and was reimbursed by the company for the whole amount of the consideration paid for the goods and services; and

(ii) acquired those goods and services for the purposes of a taxable activity to be carried on by the company and has not used those goods and services for any purpose other than such taxable activity,

the company will be deemed to be the recipient of the goods and services as if the supply or importation in question had been made during the taxable period in which the reimbursement referred to in this section is made.

(2) This section will not apply in relation to any goods and services where –

(a) the supply of the goods and services by the person to the company is itself a taxable supply or is a supply of second-hand goods not being a taxable supply; or

(b) the goods and services were acquired more than 6 months prior to the date of incorporation of the company; or

(c) the company does not hold sufficient records to establish the particulars relating to the deduction to be made under section 19(4) as a result of the application of this section.

PART 10 – (*Repealed*)

Sections 51 to 53

PART 11 – GENERAL PROVISIONS

54. Keeping of records

(1) A registered person must keep such records as are necessary to:

(a) enable the calculation of the tax payable (including a nil amount) by, or a negative amount of, the person for a taxable period; and

(b) provide evidence of exempt or zero-rated supplies made by the person during a taxable period.

(1A) Every registered person whose total value of taxable supplies has, in a period of 12 months, exceeded the amount specified in paragraph 12(1)(a) is required to:

(a) record any money received in respect of taxable supplies made by the registered person by way of an entry on cash register tape; and

(b) ensure that the cash register tape, records the date and the sum of the total money received for each day of the registered person's taxable period;

except where the Director specifies otherwise.

55. Agreement to defeat the intention and application of Act to be void

(1) Notwithstanding anything in this Act, where the Director is satisfied that an arrangement has been entered into to defeat the intent and application of this Act or of any provision of this Act, the Director will treat the arrangement as void for the purposes of this Act and will adjust the amount of tax payable by any registered person (or refundable to that person by the Director) who is affected by the arrangement, whether or not the registered person is a party to the arrangement, in such manner as the Director considers appropriate so as to counteract any tax advantage obtained by the registered person from or under the arrangement.

(2) For the purposes of this section –

"arrangement" means any contract, agreement, plan or understanding including all steps and transactions by which it is carried into effect;

"tax advantage" includes –

(a) any reduction in the liability of a registered person to pay tax;

(b) any increase in the entitlement of a registered person to a refund of tax;

(c) any reduction in the total consideration payable by a person in respect of any supply of goods and services.

56. (*Repealed*)

57. (*Repealed*)

58. (*Repealed*)

59. Regulations

(1) The Minister may from time to time make all such regulations as, in the Minister's opinion, may be deemed necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power to make regulations conferred by subsection (1), it is hereby declared that regulations may be made under this section prescribing forms and rules or procedure for the ascertainment, assessment and collection of taxes imposed under this Act.

60. Display of prices of goods or services for sale

(1) Subject to subsections (2) and (3), any registered person displaying the prices of goods or services for sale must display the prices inclusive of value added tax (if any), but the person may also display the value added tax content of the prices.

(2) Where any tourism publicity material is or will be utilised predominantly overseas to advertise the supply of any goods and services by any registered person, the price of those goods and services advertised may be displayed as exclusive of tax (if any) on that supply, provided that any tourism publicity material on which an exclusive of tax price is displayed must clearly state that the price displayed is subject to the tax.

(3) The Director may, upon application by a registered person, allow the application of subsection (1) by the person to be deferred until 1 February 1999.

PART 12 – (*Repealed*)

Sections 61 to 68

PART 13 – TRANSITIONAL PROVISIONS AND REPEALS

69. Effect on supply price of 1998 introduction of tax

(1) If –

(a) a supply of goods or services has become subject to value added tax as a result of this Act; and

(b) the parties to the supply have not expressly agreed that this subsection will not apply; and

(c) the agreement between the parties for the making of the supply is entered into before 31 July 1998,

the registered person making the supply may increase the agreed price for the supply, and may recover the increase from the acquirer of the goods or services, by the amount of tax payable in respect of the supply, to the extent to which that tax exceeds the aggregate of the following sums:

(d) the business licence fee related to the turnover (if any) which would have been payable in respect of the supply but for the repeal of the Business Licence Act [Cap. 173] made by the Business Licence Act [Cap. 249];

(e) the hotel and licensed premises tax (if any) that would have been payable in respect of the supply but for the repeal of the Hotel and Licensed Premises Act [Cap. 141] under this Act;

(f) the video cassette tax on hiring (if any) that would have been payable in respect of the supply but for the repeal of the Video Cassette (Tax on Hiring) Act [Cap. 180] under this Act;

(g) The customs duty that would have been payable by the registered person in respect of the supply but for amendments to the Import Duties (Consolidation) Act [Cap. 91] that apply in respect of goods imported and cleared through customs on or after 1 July 1998; and

(h) tax that would have been payable by the registered person under the Rent Taxation Act [Cap. 196] but for amendments to that Act that apply in respect of rent payable after 1 August 1998.

(2) If –

(a) a fee, charge or other amount is payable under an Act or regulation; and

(b) the supply to which the fee, charge or other amount relates becomes subject to value added tax as a result of this Act; and

(c) it is not expressly provided that the fee, charge or other amount is inclusive of value added tax; and

(d) the fee, charge or other amount was determined before 1 August 1998,

the fee, charge or other amount will be treated as if increased by the amount of the tax payable in respect of the supply, to the extent to which that tax exceeds the aggregate

of the sums referred to in paragraphs (d) to (h) of subsection (1) with those paragraphs applied as if the supply referred to in subsection (1) were the supply covered by this subsection.

70. Deductions for customs duty

(1) For the purposes of this section –

"capital asset" means any goods forming part of the capital assets of a taxable activity:

"trading stock" does not include:

(a) any capital asset; or

(b) any goods held on hire or for hire; or

(c) any second-hand goods, unless goods in respect of which that registered person has paid customs duty and which have been supplied and subsequently reacquired by that person; or

(d) beer, cigarettes, manufactured tobacco or spirits; or

(e) any goods being consumables and spare parts of the taxable activity; or

(f) any goods entered free of duty under the Import Duties (Consolidation) Act [Cap. 91].

(2) Notwithstanding anything in section 19(4), in calculating the amount of tax payable by a registered person, the person may deduct an amount equal to the customs duty credit calculated in accordance with subsections (3) to (7):

(a) in two equal instalments, each of one half of the customs duty credit, over two taxable periods the latter of which ends on 31 December 1998, if the taxpayer is in Category B under section 15(1); or

(b) in twelve equal instalments, each of one twelfth of the customs duty credit, over twelve taxable periods the last of which ends on 31 July 1999 if the taxpayer is in Category A under section 15(1) and holds, on 1 August 1998, a bonded warehouse licence for the operation of a duty free shop under the Customs Act [Cap. 3*]; or

(c) in five equal instalments, each of one fifth of the customs duty credit, over five taxable periods the last of which ends on 31 December 1998, otherwise.

(3) An amount of customs duty creditable to be deducted under this section arises only in respect of goods –

(a) held by the registered person at the close of 30 June 1998; and

(b) which are trading stock of a taxable activity carried on by the registered person; and

(c) in respect of which the Director is satisfied that customs duty was paid on their importation or entry for home consumption.

(4) The amount of customs duty credit may, at the election of the person but subject to subsection (5), be calculated under any one of the following paragraphs:

(a) an amount (not less than zero) calculated by deducting from the customs duty paid by the registered person in respect of the goods the amount of customs duty that would have been correctly payable by the person if those goods had been imported or entered for home consumption on or after 1 July 1998;

(b) an amount equal to 5 percent of the cost of the goods; or

* *Editor's note: Cap. 3 has been superseded by the Customs Act, Cap. 257.*

(c) for taxpayers entitled to be placed in Category B under section 15, an amount equal to 5 percent of the total proceeds of sales of trading stock by the person in the three months ending on 30 June 1998.

(5) The Minister may, by order, require that the customs duty credit in respect of certain items of trading stock be calculated in accordance with subsection (4)(a).

(6) A registered person entitled to a deduction against value added tax under this section will disclose to the Director with the person's return for each taxable period in which a claim for a deduction is made –

(a) the total amount of the deduction to which the person is entitled;

(b) the total amount, if any, claimed as a deduction in previous returns; and

(c) the amount claimed as a deduction in the current return.

(7) A registered person will not be entitled to a deduction under this section unless the claim for the deduction is supported by adequate stock, purchase and sales records kept by the person, including stock sheets, information on the cost of goods purchased, records of sales and purchases and of customs duty payments.

71. Regard to customs duty credit and duty reductions in prices

(1) For the purposes of this section, "customs duty credit" means any amount that a registered person is or, but for this section, would be allowed to deduct under section 70.

(2) In determining the price of a supply of goods or services, a registered person will have regard to the amount of customs duty credit the registered person is entitled to deduct under section 70 in respect of the supply and the amount, if any, by which customs duty payable on goods in respect of that supply is lower than the customs duty that would have been payable if those goods had been imported and cleared through Customs before 1 July 1998.

(3) If a registered person does not have adequate regard to the amount of customs duty credit and reduction in customs duty in respect of a supply under subsection (1), the Director may, notwithstanding section 70:

(a) deny a deduction for any customs duty credit in respect of the goods supplied; and

(b) impose additional tax of up to 5% of the taxable supply in respect of the taxable period in which the supply is made, which tax will be payable in all respects as if were additional tax imposed under section 31.

(4) This section will apply in respect of taxable supplies made in any taxable period that tends on or before 30 November 1998.

72. Registration of persons liable to be registered on 1 August 1998

Notwithstanding anything in section 12 (which relates to registration of persons making taxable supplies), every person who, on or before 30 June 1998, knows, or could with reasonable diligence have known, that he or she will be liable to be registered from 1 August 1998 under section 12, will apply in the approved form for registration before 30 June 1998, and the Director will register that person under section 12.

73. Supplies prior to 1 August 1998

(1) For the purposes of this section, the expression “time of performance” means –

(a) in relation to a supply of goods, –

(i) if the goods are to be removed and the property in those goods will pass from the supplier to the recipient, the earlier of the time of the removal and the time that that property passes;

(ii) if the goods are to be removed but property in the goods will not pass from the supplier to the recipient, the time of the removal;

(iii) if the goods are not to be removed, the time they are made available to the recipient;

(iv) if the goods (being sent or taken on approval, sale or return or similar terms) are removed before it is known whether a supply will take place, the time when it becomes certain that the supply has taken place; and

(b) in relation to a supply of services, the time when the services are performed.

(2) If a registered person supplies services under an agreement or enactment and the agreement or enactment expressly or impliedly provides that, for and in respect of any period –

(a) a right is to be granted or exercisable or anything is to be done or omitted to be done; or

(b) a payment is due, or may be made; or

(c) the agreement is enforceable or will have effect,

those services will for the purposes of subsection (1)(b) be treated as if performed by the registered person continuously and uniformly during the whole of that period.

(3) If services are supplied under an agreement or enactment which provides that any right is to be granted or exercisable by an individual for a period which will end with the termination of the life of the individual and there is a single non-refundable payment as consideration, the services will, for the purposes of subsection (1)(b), be deemed to have been performed at the earlier of the time the right is granted by the supplier or at the time that it first becomes exercisable.

(4) Notwithstanding anything in this Act, for the purposes of subsection (1), goods supplied under an agreement to hire will be deemed to be a supply of services.

(5) Notwithstanding anything in section 5, if and to the extent that the time of performance of any supply of goods and services –

(a) is before 1 August 1998 and that supply would, but for this section, be deemed by section 5 of this Act to take place on or after 1 August 1998, and the value of the supply is ascertainable, the time of performance will, for the purposes of this Act, be treated as being the time when the supply of the goods and services takes place;

(b) is on or after 1 August 1998, and that supply would, but for this section, be deemed by section 5 of this Act to take place before I August 1998 –

(i) the time of performance will, for the purposes of the imposition of value added tax under section 10 of this Act, be treated as being the time when the supply of the goods and services takes place; and

(ii) for the purposes of section 5 of this Act, the time when the supply of those goods and services is made will be treated as being 1 August 1998 and

(iii) for the purposes of section 19(3)(a)(ii) and 19(4)(a)(ii) (which relate to the payments basis for tax accounting), a payment made or received in respect of the supply before 1 August 1998 is deemed to be made or (as the case may be) received on I August 1998.

(6) Subsection (5) does not apply if and to the extent that –

(a) a supply of goods is the construction or alteration of a building or civil engineering work; and

(b) the goods are sold under a written contract entered into before 1 August 1998; and

(c) the goods are made available to the recipient after 1 August 1998, meaning that but for this subsection, the whole supply would be deemed to be subject to value added tax under subsection (5),

and instead the value of all work and materials permanently incorporated into the building or work under the contract must be determined as at the close of 31 July 1998 and subsections (8) and (9) will apply.

(7) The valuation required under subsection (6) must be undertaken by a competent independent valuer in a manner acceptable to the Director unless –

(a) the Director approves otherwise; or

(b) the supply of the building or work is to a registered person exclusively for the purposes of the registered person making taxable supplies.

(8) If the value calculated under subsection (6) exceeds the total of the consideration in money invoiced by, received by or due to the supplier in respect of the building or work before 1 August 1998, the consideration in money for the first supply in respect of the building or work which is deemed to occur on or after 1 August 1998 under section 5(6) is reduced by the excess and, if the excess is greater than that consideration in money, the surplus will be carried forward to reduce the consideration in money for the next subsequent such supply, and so on.

(9) If the value calculated under subsection (6) is less than the total of the consideration in money invoiced by, received by or due to the supplier before 1 August 1998, the difference is deemed to be consideration in money for a taxable supply made by the supplier on 1 August 1998 and charged with value added tax under section 10(2)(a).

74. Repeals of and consequential amendments to other Acts

(1) The enactments specified in Schedule 4 are hereby repealed and amended as stated in that Schedule.

(2) Without limiting the application of the Interpretation Act [Cap. 132], the repeal of any provision by this Act will not (except as otherwise provided in this Act) affect any document made or anything whatsoever done under the provision so repealed or under any corresponding former provision and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, will continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

(3) For all purposes relating to assessment or recovery of any tax, fee or duty payable under a provision repealed by this Act in respect of a supply or importation before 1 August 1998, the provisions repealed by this Act are deemed to remain in force.

SCHEDULE 1

(Section 10(3)(a))

Exempt supplies

1. Financial services, being any one or more of the following services:

   (a) Exchanging currency;

   (b) Issuing, paying, collecting or transferring ownership of a cheque or letter of credit;

   (c) Issuing, allotting, transferring ownership of, renewing or varying a debt instrument, a share in the capital of a company, an interest in a unit trust or similar contributory scheme, or any interest in such property;

   (d) Underwriting the issue of a debt instrument, share in the capital of a company or interest in a unit trust or similar contributory scheme;

   (e) Providing credit or varying a contract for the provision of credit;

   (f) Providing, taking, varying or releasing a guarantee, indemnity, security or bond in respect of the performance of obligations under a cheque, letter of credit, debt instrument, share in the capital of a company, interest in a unit trust or similar contributory scheme, or contract for the provision of credit;

   (g) Providing, or transferring ownership of, a life insurance contract or a life reinsurance contract;

   (h) Providing, or transferring ownership of, an interest in a superannuation scheme;

   (i) Providing, or transferring ownership of, a futures contract through a recognised futures exchange;

   (j) Paying or collecting any amount of interest, principal, dividend or other amount in respect of any debt instrument, share in the capital of a company, interest in a unit trust or similar contributory scheme, contract for the provision of credit, life insurance contract, interest in a superannuation scheme or futures contract;

   (k) Agreeing to do, or arranging, any of the services specified in the preceding paragraphs of this section, other than merely advising on those services.

2. A supply of donated goods or services by a non-profit body.

3. The supply of accommodation in a residential dwelling by way of hire.

4. The supply of leasehold land by way of rental (not being a grant or sale of the lease of that land) to the extent that the land is used for the principal purpose of accommodation in a dwelling erected on that land but not including lease rentals payable under section 39 or section 39A of the Land Leases Act [Cap. 163].

5. The supply, being a sale, by any registered person in the course or furtherance of any taxable activity of –

   (a) any dwelling; or

   (b) the reversionary interest in the fee simple estate of any leasehold land,

   that has been used by the registered person for a period of 5 years or more before the date of the supply exclusively for the making of any supply or supplies referred to in paragraphs 3 or 4 of this Schedule.

6. The supply of education by an educational institution, including the supply of any goods and services incidental thereto.

7. The supply of services by a person being the direct operation of local tours, bookings of tours within Vanuatu and the renting of motor cars and motorcycles before 30 June 1999 where the person held a business licence under categories E5, E9 or E10 of the Business Licence Act [Cap. 173] on 30 April 1998 unless the person elects in writing to the Director that this clause not apply to such supplies made by the person.

8. (*Repealed*)

9. A payment in the nature of a grant or subsidy by the State to a person that is treated as a supply in the course of the person's taxable activity under section 3(2) of this Act that is made on or before 31 December 1998.

10. For the purposes of this Schedule the terms:

"donated goods and services" means goods and services that are gifted to a non-profit body and are intended for use in carrying on or carrying out of the purposes of that non-profit body;

"dwelling" means any building, premises, structure, or other place, or any part thereof, used predominantly as a place of residence or abode of any individual, together with any appurtenances belonging thereto and enjoyed with it, but does not include a commercial dwelling;

"educational institution" means any pre-school, primary school or secondary school registered by the Department of Education, the University of the South Pacific or any other similar educational institute approved by the Director.

SCHEDULE 2

Exempt Importations

Goods admitted free of VAT under Parts 2(A), 2(B), and 3 of Schedule 1 to the Import Duties (Consolidation) Act [CAP 91].

SCHEDULE 3

(Section 11(2))

Zero-rated supplies

1. Any supply of goods if the registered person –

(a) exports the goods from Vanuatu in the course of the supply; or

(b) satisfies the Director that the goods have been exported from Vanuatu by the registered person; or

(c) satisfies the Director that the goods have been supplied to a person for consumption or use outside Vanuatu (including as stores on departing ships or aircraft or where the acquirer of the goods is a departing sea or air traveller); or

(d) sells the goods, to an air traveller arriving in Vanuatu, within an area under the control of the Director of Customs as a customs examining place under the Customs Act [Cap. 3]:

Provided that this paragraph will not apply to a supply of goods by a registered person –

(e) being goods in respect of which a deduction under section 19(4)(c) of this Act has been allowed to the registered person; or

(f) being goods which have been or will be re-imported into Vanuatu by the supplier.

2. Any supply of goods situated outside Vanuatu at the time of supply.

3. Any supply of services being the transportation of passengers or goods (including ancillary insurance or the arranging of the insurance or the arranging of the transport of passengers or goods) –

(a) from Vanuatu to a place outside Vanuatu;

(b) from a place outside Vanuatu to Vanuatu;

(c) within Vanuatu if part of the supply of transport services to which subparagraph (a) or (b) of this paragraph applies.

4. Any supply of services physically performed outside Vanuatu.

5. Any supply of services to a person:

(a) who is a non-resident of Vanuatu carrying on business in Vanuatu through a fixed place of business; and

(b) who is outside Vanuatu at the time the services are performed.

However, this clause does not apply to services if:

(a) the services are supplied directly in connection with tangible property situated in Vanuatu at the time the services are performed; or

(b) another person who is not a registered person receives the performance of those services in Vanuatu.

6. (*Repealed*)

7. Any supply of goods or services in respect of an approved aid project made directly by a person to a Diplomatic Mission of a foreign state, an international aid organisation, the State, a Constitutional Entity, a Statutory Entity or a Statutory Corporation.

8. For the purposes of this Schedule the term "approved aid project" means an aid project for which the project Memorandum of Understanding, or other like document, approved by the Council of Ministers and lodged with the Minister contains specific provisions for zero-rating under clause 7 of this Schedule.

9. The supply is:

(a) a supply to a registered person of taxable activity, or part of a taxable activity, that is, or is to be, transferred from the supplier to the recipient as a going concern; and

(b) agreed by the supplier and recipient, in writing, to be the supply of a going concern.

10. (*Repealed*)

11. Any supply of services provided to overseas postal organisations for the delivery in Vanuatu of postal articles mailed outside Vanuatu.

12. Any supply of services provided in relation to a vessel visiting Vanuatu if:

(a) the services are supplied to a person who is a non-resident of Vanuatu carrying on business in Vanuatu through a fixed place of business at the time the services are performed; and

(b) the vessel has been granted temporary import status under clause X.40 of Schedule 2 of the Import Duties (Consolidation) Act [Cap. 91]; and

(c) the services are supplied within 3 months after the vessel arrived in Vanuatu or such longer period as the Director may consider appropriate.

13. Payments to an agency of the State that represent appropriations under an Appropriation Act.

14. (1) Any supply of goods or services to an International Organisation that is listed under Schedule 6 of the Diplomatic Privilege and Immunities Act [CAP 143], if:

(a) the goods and services are to be used by that International Organisation in their services; and

(b) the International Organisation provides a valid approval certificate to the supplier of goods and services at the time the supply is made.

(2) Approval certificate means a certificate issued by the Director that includes the following information:

(a) the name of the International Organisation;

(b) the certificate number;

(c) the period for which the certificate is valid.

(3) An approval certificate may be renewed or revoked by the Director.

(4) To avoid doubt, this clause does not cover the supply of goods or services to any person employed by an International Organisation for his or her personal use.

SCHEDULE 4

(Section 74)

Enactments repealed or amended

1. The following enactments are repealed with effect from 1 August 1998:

(a) The Hotel and Licensed Premises Tax Act [CAP 141];

(b) The Amusement Machines Act [CAP 33]; and

(c) The Video Cassettes (Tax on Hiring) Act [CAP 180].

2. – 5. *(Omitted)*

Table of Amendments

2(1)	*Amended by Acts 45 of 2000, 28 of 2001, 28 of 2002,47 of 2005, Act 3 of 2007, Act 2 of 2010, Act 18 of 2012, Act 2 of 2019*
2(2)	*Inserted by Act 28 of 2001*
3(3A)	*Inserted by Act 28 of 2001*
3(10)	*Amended by Acts 45 of 2000, 28 of 2001*
2A	*Inserted by Act 2 of 2019*
3(10)	*Amended Act 2 of 2019*
3(11), (12)	*Inserted by Act 45 of 2000*
3(11)	*Amended by Act 28 of 2001, Act 2 of 2019*
4(3)(ab)	*Inserted by Act 45 of 2000*
5(1)(a)	*Amended by Act 45 of 2000*
5(1)(c)	*Repealed by Act 45 of 2000*
5(6)	*Amended by Act 45 of 2000*
5(8)	*Amended by Act 45 of 2000*
6(2)	*Amended by Act 45 of 2000, Act 2 of 2019*
6(4)	*Amended by Act 45 of 2000*
6(6)	*Amended by Act 45 of 2000*
7	*Substituted by Act 28 of 2002*
7(1) and (2)	*Amended by Act 2 of 2019*
8	*Repealed by Act 28 of 2002*
11(1)(b)(ii)(a)	*Inserted by Act 28 of 2002*
11(1)	*Amended by Act 42 of 2017*
12(3) and (4)	*Amended by Act 2 of 2019*
12(5)	*Amended by Act 44 of 2009*
12(5A)	*Inserted by Act 44 of 2009*
	Amended by Act 2 of 2019
12(8)	*Inserted by Act 28 of 2002*
12A	*Inserted by Act 44 of 2009*
16(1)	*Substituted by Act 45 of 2000*
16(1) and (2)	*Amended by Act 2 of 2019*
16(3) and (4)	*Repealed by Act 2 of 2019*
17(1)	*Amended by Act 2 of 2019*
18(4)	*Amended by Act 2 of 2019*
19(7)(c)(i)	*Substituted by Act 45 of 2000*
19(heading),(1),(2),(4)(c),(4)(c)(iv),(4)(e),(4)(e)(iii), (7)(c)(i),(10)(b)	*Amended by Act 2 of 2019*
20	*Substituted by Act 2 of 2019*
21(3) and (6)	*Amended by Act 2 of 2019*
22(3)	*Amended by Act 2 of 2019*
23(1)(e)	*Amended by Act 2 of 2019*
Parts 5, 6 and 7	*Repealed by Act 2 of 2019*
24(6)	*Substituted by Act 45 of 2000*
33(1A), (1B)	*Inserted by Act 28 of 2002*
38	*Substituted by Act 28 of 2002*
41(3)(b)	*Substituted by Act 28 of 2001*
41A	*Inserted by Act 30 of 2003, repealed by Act 2 of 2019*
43 and 44	*Repealed by Act 2 of 2019*
45(8)(ea)	*Inserted by Act 45 of 2000*
46	*Repealed by Act 2 of 2019*
47(6)(a)	*Amended by Act 2 of 2019*
48 and 49	*Repealed by Act 2 of 2019*
Part 10 (sections 51 to 53)	*Repealed by Act 2 of 2019*
51(1)(o),(p),(q),(r)	*Inserted by Act 28 of 2002*
51(qa),(qb)	*Inserted by Act 44 of 2009*
51(2A)	*Inserted by Act 44 of 2009*
51(7)	*Inserted by Act 28 of 2002*
51A	*Inserted by Act 47 of 2005*
54(1)	*Substituted by Act 2 of 2019*
54(1A)	*Inserted by Act 28 of 2002*
54(2),(3) and (4)	*Repealed by Act 2 of 2019*
56(4)(a)	*Amended by Act 45 of 2000*
56	*Repealed by Act 2 of 2019*
57(1)	*Amended by Act 45 of 2000*
57 and 58	*Repealed by Act 2 of 2019*
59(3)	*Repealed by Act 39 of 2006*
Part 12	*Repealed by Act 2 of 2019*
72	*Amended by Act 2 of 2019*
Sched 1, cl 4	*Amended by Act 6 of 2004*
Sched 1, cl 8	*Amended by Acts 24 of 1998, 5 of 2000, 45 of 2000, 28 of 2001, 28 of 2002; Repealed by Act 30 of 2003*
Sched 1, cl 9A	*Inserted by Act 18 of 2012, repealed by Act 2 of 2019*
Sched 2, (aa)-(ae)	*Inserted by Act 20 of 2005*
Sched 2, (aa)-(ae)	*Repealed by Act 44 of 2009*
Sched 2, (b)	*Substituted by Act 44 of 2009*
Sched 2, (ba)	*Inserted by Act 44 of 2009*
Sched 2, (e)	*Repealed by Act 44 of 2009*
Sched 2, (f),(w)	*Amended by Act 44 of 2009*

Sched 2, (x)	*Inserted by Act 28 of 2001*
Sched 2	Substituted *by Act 34 of 2014, Substituted by Act 2 of 2019*
Sched 3, cl 5	*Amended by Act 45 of 2000, amended by Act 2 of 2019*
Sched 3, cl 6	*Substituted by Act 45 of 2000*
Sched 3, cl 6	*Repealed by Act 44 of 2009*
Sched 3, cl 7	*Substituted by Act 5 of 2000, amended by Act 2 of 2010*
Sched 3, cl 8	*Amended by Act 5 of 2000; Substituted by Act 28 of 2001*
Sched 3, cl 9	*Inserted by Act 45 of 2000*
Sched 3, cl 10	*Inserted by Act 45 of 2000*
Sched 3, cl 10	*Repealed by Act 44 of 2009*
Sched 3, cl (11), (12)	*Inserted by Act 28 of 2001*
Sched 3 cl 12(a)	*Amended by Act 2 of 2019*
Sched 3, cl (13)	*Inserted by Act 30 of 2003*
Sched 3 cl 14	*Inserted by Act 3 of 2007*
Sched 4, 2-5	*Consequential amendments to Caps. 196, 172, 31 omitted per Cap. 295*