

REPUBLIC OF VANUATU

BILL FOR THE
AGRICULTURE (AMENDMENT)
ACT NO. OF 2024

Explanatory Note

This Bill amends the Agriculture Act No.17 of 2018 (“the Act”).

The Government has recognized the important functions of the agriculture sector by managing agricultural resources in an integrated and sustainable manner by providing food, improving income and contributing to environment and social services to enhance the wellbeing of all people in Vanuatu.

The Government also recognizes the need to facilitate local investors to venture into commercial agriculture business and to ensure that a proper legal framework is set up to facilitate the commercial agriculture businesses and the requirements of farming in an agriculture business are followed.

This Bill provides for the following matters:

- (a) local investor participation in commercial agriculture business; and
- (b) the Agriculture Export Permit; and
- (c) the establishment of the Agriculture Advisory Committee; and
- (d) the establishment of the Commercial Agriculture Development Fund.

1. Local investor participation in commercial agriculture business

Currently under the Act, only a foreign investor is allowed to participate in the commercial agriculture business. This Bill provides for a local investor to participate in the commercial agriculture business. This amendment will promote investment and growth of commercial agriculture and enables both local and foreign investors to participate equitably.

2. Agriculture Export Permit

Currently the Act allows only commercial agriculture business to operate. This Bill allows a local investor and a foreign investor to expand his or her agriculture business to the export of agriculture products overseas by applying to the Director for an agriculture export permit.

3. Establishment of the Agriculture Advisory Committee

This Bill establishes the Agriculture Advisory Committee (“the Advisory Committee”). The main function of the Advisory Committee is to make recommendations on applications received by the Director to grant agriculture business permit and agriculture export permit. The Advisory Committee will also assist the Department in implementing the agriculture sector policy and sub-sector development strategies.

4. Establishment of the Commercial Agriculture Development Fund

This Bill also establishes the Commercial Agriculture Development Fund (“the Fund”). This Fund will be used:

- (a) to promote and facilitate the participation of agriculture farmers into commercial agriculture business; and
- (b) to resolve the challenges that rural farmers and businesses face in accessing and utilizing finance from commercial financial institutions.

Minister of Agriculture, Livestock, Forestry, Fisheries and Biosecurity



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An Act to amend the Agriculture Act No.17 of 2018.

Be it enacted by the President and Parliament as follows-

1 Amendment

The Agriculture Act No. 17 of 2018 is amended as set out in the Schedule.

2 Commencement

This Act commences on the day on which it is published in the Gazette.

SCHEDULE

AMENDMENTS OF THE AGRICULTURE ACT NO. 17 OF 2018

1 Section 2

Insert the following definitions in their correct alphabetical positions:

“**Advisory Committee** means the Agriculture Advisory Committee established under section 8A;

Fund means the Commercial Agriculture Development Fund established under section 11C;

permit means the agriculture business permit or the agriculture export permit granted under section 11;

permit holder means a person granted with the agriculture business permit or the agriculture export permit;

prime agriculture land means land that is best for planting food types that may produce high yields of products;

Vanuatu Agricultural Research and Technical Centre means the Vanuatu Agricultural Research and Technical Centre established under the Vanuatu Agricultural Research and Technical Centre Act [CAP 286];”

2 Subsection 4(1)

After “regulate”, insert “and to oversee the development of”

3 Paragraph 4(2)(c)

After “assist”, insert “the Vanuatu Agriculture College to”

4 Paragraph 4(2)(d)

After “to”, insert “assist the Vanuatu Agriculture College to”

5 Paragraph 4(2)(f)

Repeal the paragraph, substitute

“(f) to facilitate joint-venture arrangements between:

- (i) a local investor or a foreign investor and a landowner; or
- (ii) a local investor and a foreign investor; and”

6 Paragraph 4(2)(g)

After “to” (first occurring), insert “direct the Vanuatu Agricultural Research and Technical Centre to”

7 After paragraph 4(2)(h)

Insert

“(ha) to carry out export development programme for agriculture products; and”

8 Paragraph 8(2)(b)

Delete “.”, substitute “; and

(c) the agriculture development is within the prime agricultural land.”

9 After Part 2

Insert

“PART 2A AGRICULTURE ADVISORY COMMITTEE

8A Establishment of the Agriculture Advisory Committee

The Agriculture Advisory Committee is established.

8B Composition of the Advisory Committee

The Advisory Committee consists of the following members:

- (a) the Deputy Director for Policy and Support Services of the Department;
and
- (b) the Director of the Department of Industry; and
- (c) the Director of Customs and Inland Revenue; and
- (d) the Director of Biosecurity; and
- (e) the Chief Executive Officer of the Vanuatu Foreign Investment Promotion Agency; and
- (f) the Chief Executive Officer of the Vanuatu Primary Producer Authority;
and
- (g) the Principal of the Vanuatu Agriculture College; and
- (h) the Chief Executive Officer of the Vanuatu Agricultural Research and Technical Centre; and

- (i) a representative of the Ministry of Agriculture, Livestock, Forestry, Fisheries and Biosecurity nominated by the Minister.

8C Functions of the Advisory Committee

The Advisory Committee has the following functions:

- (a) to ensure that the development of the agricultural sector, through its policy objectives and subsector strategies are effectively implemented and achieved; and
- (b) to consider applications for agriculture business permit and agriculture export permit under this Act; and
- (c) to make recommendations to the Director on specific matters relating to the administration of the permit systems under this Act; and
- (d) to make recommendations to the Director for the approval of permits to be granted under this Act; and
- (e) to make recommendations to the Director for suspension or cancellation of permits under this Act; and
- (f) to make recommendations to the Director on all matters relating to the implementation of the policy and subsector strategies; and
- (g) to carry out such other functions as may be conferred on the Advisory Committee under this Act or any other Act.

8D Powers of the Advisory Committee

The Advisory Committee has the power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions under this Act or any other Act.

8E Chairperson and Deputy Chairperson

- (1) The Deputy Director for Policy and Support Services of the Department is the Chairperson of the Advisory Committee.
- (2) The members of the Advisory Committee are to elect from amongst themselves a Deputy Chairperson of the Advisory Committee for 2 years who may be re-elected only once.

8F Meetings of the Advisory Committee

- (1) The Advisory Committee is to meet at least 2 times in a year and may hold such other meetings as are necessary for the proper performance of its functions under this Act.

- (2) The Chairperson is to preside at all meetings of the Advisory Committee and in his or her absence, the Deputy Chairperson is to preside at these meetings.
- (3) The Department is the Secretariat of the Advisory Committee.
- (4) The quorum for a meeting of the Advisory Committee is 5 members of the Advisory Committee, present at the meeting.
- (5) A member present at a meeting of the Advisory Committee has one vote and questions arising at a meeting are to be decided by a majority of votes.
- (6) If the voting at a meeting is equal, the Chairperson or the Deputy Chairperson (if he or she is presiding over the meeting) has a casting vote.
- (7) Subject to this Act, the Advisory Committee may determine and regulate its own procedures.

8G Sitting allowances

A member of the Advisory Committee including the Chairperson and Deputy Chairperson is entitled to a sitting allowance of VT5,000 for each day in which the Committee meets.

8H Other committees

- (1) The Advisory Committee may establish other committees to assist the Advisory Committee in carrying out its functions under this Act.
- (2) The Advisory Committee is to determine the functions, procedures and compositions of the other committees.
- (3) The compositions of the other committees established under this section are to be published in the Gazette.
- (4) A member of the other committees including the Chairperson and Deputy Chairperson is entitled to a sitting allowance of VT5,000 for each day in which the committee meets.”

10 Part 3

Repeal the part, substitute

“PART 3 AGRICULTURE BUSINESS PERMIT AND AGRICULTURE EXPORT PERMIT

9 Application of permit

- (1) A local investor or a foreign investor who intends to carry out a business in an agricultural activity or export an agriculture product in any of the commodities specified in the Schedule must apply to the Director for a permit.
- (2) The application must:
 - (a) be in the prescribed form; and
 - (b) be accompanied with the prescribed application fee.
- (3) The Director must, within 7 working days after receiving an application, provide the application to the Advisory Committee.

10 Assessment of permit application

- (1) The Advisory Committee must, within 7 working days after receiving an application under subsection 9(3), assess the application.
- (2) The Advisory Committee may:
 - (a) request the applicant in writing to provide additional information within a reasonable time specified by the Advisory Committee; or
 - (b) carry out consultations with the applicant on his or her application if the Advisory Committee considers necessary; or
 - (c) consult with other parties that are part of the relevant commodities sector.
- (3) The Advisory Committee must, in writing, recommend to the Director, the name of the applicant who is to be granted a permit if the Advisory Committee is satisfied that the requirements under subsections 9(2) and 10(2) have been met by the applicant.

11 Grant of permit

- (1) The Director must, upon receiving a recommendation from the Advisory Committee under subsection 10(3), grant a permit with conditions.

- (2) A permit must be in the prescribed form.
- (3) A permit is valid for a period not exceeding 1 year.
- (4) A permit is invalid if it is granted by the Director in contravention of subsection (1).

11A Conditions of permit

A permit is subject to:

- (a) the provisions of this Act and any other relevant Acts; and
- (b) any other conditions which may be prescribed, by Order, by the Director, on the recommendation of the Advisory Committee.

11B Cancellation

- (1) Subject to subsections (3) and (4), the Director must, on the recommendation of the Advisory Committee, cancel a permit if:
 - (a) the permit holder is in breach of any of the following:
 - (i) a condition of the permit; or
 - (ii) a requirement of this Act in relation to the permit; or
 - (b) the permit holder has failed to pay any amount payable by him or her under this Act or under his or her permit; or
 - (c) an order is made by the Court for the winding-up of the company.
- (2) Paragraph (1)(c) does not apply if the winding-up is for the purpose of amalgamation or reconstruction of the company.
- (3) The Director must not cancel a permit unless he or she has given at least 30 days written notice to the permit holder stating:
 - (a) his or her intention to cancel the permit; and
 - (b) a date to submit any matter which the permit holder wishes the Director to consider.
- (4) In addition to subsection (3), the Director must not cancel a permit unless he or she has taken into account:

- (a) any action taken by the permit holder to remedy and prevent further the breach of a condition of the permit or a requirement of this Act; or
- (b) any matters submitted to him or her by the permit holder under paragraph (3)(b); or
- (c) the payment of any amount of money referred to under paragraph (1)(b), and any other amount paid by the permit holder.

PART 3A COMMERCIAL AGRICULTURE DEVELOPMENT FUND

11C Establishment of the Commercial Agriculture Development Fund

- (1) The Commercial Agriculture Development Fund is established in accordance with the provisions of the Public Finance and Economic Management Act [CAP 244].
- (2) The Fund consists of:
 - (a) monies appropriated to, or for the purposes of, the Department under an Appropriation Act; and
 - (b) monies received by the Department by way of fees and charges; and
 - (c) any other monies received by the Department from any other source.
- (3) The Director is to open and maintain bank accounts on behalf of the Department as the Director considers necessary with the approval of the Director General of the Ministry of Finance and Economic Management.
- (4) The funds are to be deposited into such bank accounts as determined by the Director.
- (5) The purpose of the Fund is to provide financial incentives for:
 - (a) the Department:
 - (i) to strengthen agricultural policy research and project monitoring; and
 - (ii) to finance the implementation of Agriculture Development Programmes; and

- (b) the commercial farmers:
 - (i) to expand and diversify business opportunities; and
 - (ii) to purchase machineries, tools and equipments to increase the production capacity of the farm; and
 - (iii) to export agriculture products to another island in the country; and
 - (iv) to finance the preparation of consignments for export to another country; and
 - (v) to convert the primary produce to a primary processed product; and
 - (vi) to diversify the production capacity of the farm to other agriculture produce; and
 - (vii) to purchase equipment to set up an irrigation system for the farm; and
 - (viii) to improve road, drainage, water and electricity infrastructure to increase productive capacity of the commercial farm; and
 - (x) to help with the building construction to house the operation of a value-added business; and
 - (xi) to safeguard themselves and be resilience against the impact of climate change and disaster.”

11 Subsections 13(1) and 14(3)

Delete “on the advice of the Director”, substitute “on the advice of the Advisory Committee”

12 Subsections 13(1) and (2) and 14(1) and (3)

Delete “Minister” (wherever occurring), substitute “Director”

13 Section 15

Repeal the section, substitute

“15 Annual report by permit holder

- (1) A permit holder must provide an annual report to the Director within 3 months before the end of each year.

- (2) The annual report must specify the following information:
- (a) in the case of the agriculture business permit holder:
 - (i) the status of the development of the agriculture business he or she is engaged in; and
 - (ii) any other information as may be prescribed by the Director;
 - (b) in the case of the agriculture export permit holder:
 - (i) the quantity of crops harvested during a year; and
 - (ii) the market price and other economic conditions and matters relating to the commodity; and
 - (iii) the general demand for the commodity in the market; and
 - (iv) the challenges encountered during the year on the effective implementation of export pathway for the supply of the agriculture product for export; and
 - (v) the compliance of the suppliers on the quality of the products; and
 - (vi) the sustainability in the supply of the required quantity of product for export; and
 - (vii) the inter-island shipping and other transportation challenges; and
 - (viii) the quantity and quality of government services in the islands and in general to support the supply of products for export; and
 - (ix) the implementation of the standard operating procedures regulating the supply of products for export; and
 - (x) any other information as may be requested by the Director.”

14 Subsection 16(3)

Repeal the subsection.

15 Subsection 23(1)

Delete “permit”, substitute “research permit”

16 Subsection 24(2)

Delete “without a valid business”, substitute “or export an agriculture product without a valid”

17 Paragraph 25(2)(d)

Delete “and” (second occurring)