

REPUBLIC OF VANUATU

BILL FOR THE GOVERNMENT (AMENDMENT) ACT NO. OF 2017

Explanatory Note

This Bill amends the Government Act [CAP 243] (the Principal Act) primarily to give effect to Vanuatu's FATF Action Plan to meet FATF Recommendations*. A brief explanation of the key amendments is set out below.

General outline

The Bill inserts a new Part 6A in the Principal Act providing for the establishment of the National Security Advisory Committee (Committee) and its functions, powers and governance arrangements. The Committee plays a key role in assisting the Prime Minister on matters of national security. Importantly, the Committee is central to the effective implementation of the United Nations Financial Sanctions Act No. of 2017 (Sanctions Act), and this Bill enables the Committee to carry out its role under the sanctions regime.

Establishment of the Committee and its membership

Proposed section 23B establishes the Committee and sets out its membership. The Committee is comprised of: the Directors-General of the Office of the Prime Minister (Chairperson), Ministry of Public Finance and Economic Management (Deputy Chairperson), Ministry of Internal Affairs, and Ministry of Foreign Affairs; the Attorney-General; the Commissioner of Police; and the Chief Information Officer.

Committee's functions

Proposed section 23D sets out the Committee's functions, which are principally focused on assisting the Prime Minister on matters of national security.

A key role of the Committee is to advise the Prime Minister on the designation of a person or entity under the Sanctions Act, or extension or revocation of that designation. In addition, the Committee will advise the Prime Minister on an application by a person under the Sanctions Act to deal with frozen property or to make property or a financial service available to a designated person or entity. These functions are important, because under the Sanctions Act the Prime Minister must consider the advice provided by the Committee before reaching a decision on designations or authorisations.

Other key functions of the Committee include advising the Prime Minister on matters affecting the sovereignty, unity and security of Vanuatu, and on security-related policy and program development, planning, management, monitoring and evaluation.

In carrying out its functions, the Committee may request the assistance of a person or any Ministry or Government Department (proposed section 23F).

Committee's powers

Proposed section 23E empowers the Committee to do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions.

Meetings of the Committee

Proposed section 23G clarifies how often the Committee is to meet, quorum requirements, and how decisions are to be reached.

*The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CTF) standard.

Prime Minister



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REPUBLIC OF VANUATU

BILL FOR THE GOVERNMENT (AMENDMENT) ACT NO. OF 2017

An Act to amend the Government Act [CAP 243].

Be it enacted by the President and Parliament as follows-

1 Amendment

The Government Act [CAP 243] 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 GOVERNMENT ACT [CAP 243]

1 After Part 6

Insert

“PART 6A NATIONAL SECURITY ADVISORY COMMITTEE

23A Definitions

In this Part, unless the context otherwise requires:

“Committee” means the National Security Advisory Committee established under section 23B of this Act;

“reporting entity” has the same meaning as in section 1 of the Anti-Money Laundering and Counter-Terrorism Act No. 13 of 2014;

“security” includes:

(a) the protection of Vanuatu from:

(i) espionage; and

(ii) sabotage; and

(iii) seditious intention; and

(iv) active measures of foreign intervention; and

(v) terrorism;

whether directed from, or committed within Vanuatu or not; and

(b) the carrying out of Vanuatu’s responsibilities to any foreign country in relation to a matter contained in paragraph (a);

“seditious intention” has the meaning given to it under section 63 of the Penal Code Act [CAP 135];

“UN Financial Sanctions Act” means the United Nations Financial Sanctions Act No. of 2017;

“Unit” means the Financial Intelligence Unit established under section 4 of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014.

23B National Security Advisory Committee

- (1) The National Security Advisory Committee is established.
- (2) The Committee consists of the following members:
 - (a) the Director General of the Office of the Prime Minister;
 - (b) the Director General of the Ministry of Finance and Economic Management;
 - (c) the Director General of the Ministry of Internal Affairs;
 - (d) the Director General of the Ministry of Foreign Affairs;
 - (e) the Attorney General;
 - (f) the Commissioner of Police;
 - (g) the Chief Information Officer.

23C Chairperson and Deputy Chairperson

- (1) The Director General of the Office of the Prime Minister is the Chairperson of the Committee.
- (2) The Director General of the Ministry of Finance and Economic Management is the Deputy Chairperson of the Committee.

23D Functions of the Committee

The functions of the Committee are to advise the Prime Minister on:

- (a) the designation of a person or entity under the UN Financial Sanctions Act, or an extension or revocation of such a designation; and
- (b) an application by a person under the UN Financial Sanctions Act for authorisation to deal with frozen property or make property or a financial service available; and
- (c) matters directly affecting the sovereignty, unity and security of Vanuatu; and

- (d) the development of Government objectives, policies and programmes on security; and
- (e) the preparation of medium and long-term security plans; and
- (f) the preparation of security and intelligence programmes and projects, including the financing and implementation of such programmes and projects; and
- (g) the monitoring, evaluation and reporting on implementation of the Government's development policies, programmes and projects on security, including at agency level; and
- (h) any action required to be taken on any security, defence and intelligence tasks and activities as determined by the Committee; and
- (i) the management of crisis situations created by security threats against the sovereignty of Vanuatu and against other security issues.

23E Powers of the Committee

The 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.

23F Request for assistance by the Committee

The Committee may request the assistance of a person or any Ministry or Department of Government in carrying out any of its functions set out in section 23D.

23G Meetings of the Committee

- (1) The Committee is to meet on such dates and at such times as the Chairperson determines, and may hold such other meetings as are necessary for the performance of its functions under this Act.
- (2) The Chairperson is to preside at all meetings of the Committee and if the Chairperson is absent, the Deputy Chairperson is to preside at that meeting.
- (3) The quorum for a meeting of the Committee is the Chairperson or Deputy Chairperson and three other members.

SCHEDULE
AMENDMENTS OF GOVERNMENT ACT [CAP 243]

- (4) A member present at the meeting has one vote and questions arising at a meeting are to be decided by a majority of votes.
- (5) If the voting at a meeting is equal, the member presiding at the meeting has a casting vote.
- (6) Subject to this Act, the Committee may determine and regulate its own procedures.”