

REPUBLIC OF VANUATU

BILL FOR THE COMPANY TRUST AND SERVICES PROVIDERS (AMENDMENT) ACT NO. OF 2018

Explanatory Note

This Bill amends the Company Trust and Services Providers Act No.8 of 2010.

Since being removed from the Financial Action Task Force (“FATF”) Grey list, it is essential that Vanuatu make necessary amendments to strengthen the enforcement of its laws so that we remain on the FATF white list.

A licensee under the Company and Trust Service Providers Act has the license to engage in company services prescribed under different licenses under the Act. The licensees’ activities range from company services which includes company formation, providing registered agent services to International Companies and Financial Dealers Licenses. Under the auspices of the Financial Intelligence Unit, a licensee under this Act is also a reporting entity and has a duty to report to the Financial Intelligence Unit.

A licensee deals with high risk entities such as International Companies and Financial Dealer’s Licenses. They are high risks entities because of the inevitable threats of money laundering, terrorist financial and financial loss arising from fraudulent conducts of the entities. Hence, the licensee must bear some responsibilities for the conduct of the entities.

With the current provisions of the Act, any breaches of the Act are dealt with by the normal judicial process. The amendments provide for penalty notices to ensure that the licensees pay the fine and have the breach remedied sooner.

The proposed amendments will require the Commissioner to issue penalty notices on the licensees. This will improve and facilitate the Vanuatu Financial Service Commission’s ongoing robust monitoring and supervision of Company and Trust Services Providers in Vanuatu.

Minister of Finance and Economic Management



REPUBLIC OF VANUATU

**BILL FOR THE
COMPANY AND TRUST SERVICES PROVIDERS
(AMENDMENT)
ACT NO. OF 2018**

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REPUBLIC OF VANUATU

BILL FOR THE COMPANY AND TRUST SERVICES PROVIDERS (AMENDMENT) ACT NO. OF 2018

An Act to amend the Company and Trust Services Providers Act No. 8 of 2010.

Be it enacted by the President and Parliament as follows-

1 Amendment

The Company and Trust Services Providers Act No. 8 of 2010 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 COMPANY AND TRUST SERVICES PROVIDERS ACT NO. 8 OF 2010

1 After Section 56

Insert

“56A Penalty Notice

- (1) The Commissioner may serve a penalty notice on a person if it appears to the Commissioner that the person has committed an offence under this Act.
- (2) A penalty notice may be served personally or by post.
- (3) The Minister may by Order prescribe penalties which a person is required to pay under this section, which must not exceed:
 - (a) VT 200,000 for an individual; or
 - (b) VT 1 million for a body corporate,within 30 days after the date on which the notice was served.
- (4) If the amount of penalty referred to in subsection (3) is paid, that person is not liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any proceeding arising out of the same occurrence.
- (6) The Commissioner may publish a penalty notice issued to a person in such manner as the Commissioner determines.
- (7) If a penalty notice has been served on a person, a prosecution in respect of the alleged offence may only be commenced if the penalty remains unpaid 30 days after the penalty was due, and the Court may take account of any unpaid penalty when imposing a penalty in respect of the offence.

SCHEDULE

AMENDMENTS OF COMPANY AND TRUST SERVICES PROVIDERS ACT NO. 8 OF 2010

- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.”