

# REPUBLIC OF VANUATU

## BILL FOR THE STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT NO. OF 2018

### Explanatory Note

The Bill provides for amendments to the following Acts:

- (a) Casino Control Act [CAP 223];
- (b) Immigration Act No. 17 of 2010;
- (c) Oaths Act [CAP 37];
- (d) Public Land Transport Act No. of 2015;
- (e) Shipping Act [CAP 53];
- (f) Trademarks Act No. 1 of 2003.

#### Item 1 amends the **Casino Control Act [CAP 223]**

The proposed amendment aims to achieve an effective monitoring system of existing casino operators in Vanuatu.

Given the technical nature of the casino industry, the Government has agreed to engage through the Director of Customs and Inland Revenue, a company or entity that specializes in monitoring casino operators, to assist officers appointed under the Act.

The amendment empowers the Director to appoint a person, which may be a company or entity to perform any functions or exercise any powers of an officer under the Act. The terms and conditions of the appointment of that person will be determined by the Director.

#### Item 2 amends the **Immigration Act No. 17 of 2010**

There currently exists a duplication in the appeal process in the Immigration Act and the Labour (Work Permits) Act (“the Labour Act”). Under the Labour Act, once the Commissioner of Labour has revoked or refused a work permit, the employer at his or her discretion may appeal

that decision to the Minister of Internal Affairs. If the Minister upholds the decision of the Commissioner of Labour, the decision is made known to the Director of Immigration Services. The Director of Immigration Services is then required by the Immigration Act to give further opportunity for a non-citizen to appeal the decision to have his or her residence visa revoked regardless of the fact that the basis of that individual being issued a residency visa (which was due to his or her work permit) has been revoked. This is a duplication of the process which affects the efficient administration of both the Immigration Act and the Labour (Work Permit) Act.

The new section 49A removes that duplication in the process by automatically cancelling a visa granted under the Immigration Act if a person's work permit under the Labour Act has been revoked and the person has been unsuccessful in his or her appeal under the Labour (Work Permits) Act.

The other amendments made in this Act are to correct a wrong cross referencing. The correct provision to be amended is Paragraph 53A(1)(ab) and not Paragraph 53(1)(da).

### **Item 3 amends the Oaths Act [CAP 37]**

This Act is amended to avoid the issue of delaying the taking and subscribing to the oath of allegiance and signing the Roll of Members of Parliament by a Member of Parliament after he or she has been elected in a by- election.

When a candidate has been declared by the Electoral Commission as a successful candidate after a by-election, he or she must wait for the next sitting of Parliament, to take and subscribe to the oath of allegiance, which may happen months after the declaration of the election results.

This amendment is to ensure that if a Member of Parliament is elected in a by-election, he or she does not have to wait for the next session of Parliament to take and subscribe to the oath of allegiance. The Member of Parliament can now take and subscribe to the oath of allegiance and sign the Roll of Members of Parliament simultaneously within two weeks after declaration of the election results.

### **Item 4 amends the Public Land Transport Act No. 4 of 2015**

The current provision on the powers of the Authority does not include any specific powers. The proposed amendment provides a specific power to the Authority to prescribe fines and penalties for any breach of the prescribed standards and fare levying and any other matter which the Authority is empowered to prescribe under this Act. The proposed amendment further provides for other matters which the Minister is empowered to prescribe by Regulation such as:

- (a) to prescribe fines and penalties for breach of any Regulations made under the Act;
- (b) to regulate the specific functions of each category of public land transport to ensure that a category of a public land transport will not perform the functions of another category. For example, it is not function of a service bus at the wharf to transport a bag of kava when it is the function of a common transport;

- (c) to establish standard colours for specific categories of public land transport so the categories of public land transport can be easily identified by members of the public.

**Item 5 amends the Shipping Act [CAP 53]**

This proposed amendment is to correct errors in the French text of the amendment made to the Shipping (Amendment) Act No. 21 of 2014, so that the French text will be consistent with the English text.

**Item 6 amends the Trademarks Act No. 1 of 2003**

The purpose of this amendment provides for the registration of annual maintenance fees. It is a fee charged for the administrative maintenance of trademark files kept within the registry. The actual fees will be prescribed by the Regulations.

**Minister of Justice and Community Services**



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# REPUBLIC OF VANUATU

## BILL FOR THE STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT NO. OF 2018

An Act to provide for amendments to certain Acts.

Be it enacted by the President and Parliament as follows-

### **1 Amendment**

The following Acts are amended as set out in the Schedule:

- (a) Casino Control Act [CAP 223];
- (b) Immigration Act No. 17 of 2010;
- (c) Oaths Act [CAP 37];
- (d) Public Land Transport Act No. 4 of 2015;
- (e) Shipping Act [CAP 53];
- (f) Trademarks Act No. 1 of 2003.

### **2 Repeal of Act**

- (1) This Act is repealed on the day following the day on which all provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 11 of the Interpretation Act [CAP 132], affect any amendments made by this Act.

### **3 Commencement**

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

## SCHEDULE

### MINOR AMENDMENTS

#### 1 CASINO CONTROL ACT [CAP 223]

##### After section 19

Insert

##### “19A Appointment of person to assist officers

- (1) The Director may, in writing, appoint a person to assist an officer to perform or exercise any functions or powers that may be performed or exercised by the officer under this Act.
- (2) A person appointed under subsection (1) is subject to the direction of the Director in performing or exercising any functions or powers under this Act.
- (3) The terms and conditions of the appointment are to be determined by the Director.”

#### 2 IMMIGRATION ACT NO. 17 OF 2010

##### (a) After section 49, insert

##### “49A Cancellation of work permit

A visa granted to a person under this Act is automatically cancelled if :

- (a) the work permit granted to the person under the Labour (Work Permits) Act has been revoked by the Commissioner of Labour; and
- (b) the person has been unsuccessful in his or her appeal under the Labour (Work Permits) Act [CAP 187].”

##### (b) Paragraph 53(1)(da)

Repeal the paragraph.

##### (c) After paragraph 53A(1)(ab)

Insert

- “(ac) has breached any condition of his or her visa on three different occasions; or”

### **3 OATHS ACT [CAP 37]**

#### **After subsection 5(2A)**

Insert

“(2B) A member of Parliament referred to in subsection (2A) is to sign the Roll of Members of Parliament and take and subscribe to the oath of allegiance, simultaneously in the office of the Speaker of Parliament within 2 weeks after the declaration of the election results.

(2C) The signing of the Roll is to be facilitated by the Clerk of Parliament and witnessed by the Speaker.”

### **4 PUBLIC LAND TRANSPORT ACT NO. 4 OF 2015**

#### **(a) Section 6**

Repeal the section, substitute

- (1) The Authority 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.
- (2) Without limiting subsection (1), the Authority may prescribe fines and penalties for any breach of prescribed standards, fare levy and any other matter which the Authority is empowered to prescribe under this Act.”

#### **(b) Paragraph 44(2)(d)**

Repeal the paragraph, substitute

“(d) prescribe fees payable under this Act; or”

#### **(c) Paragraph 44(2)(r)**

Delete “.”, substitute “; or”

#### **(d) After paragraph 44(2)(r)**

Insert

- “(s) prescribe fines and penalties for any breach of Regulations made under this Act; or
- (t) regulate the specific functions of each category of public land transport under this section; or
- (u) establish standard colours for specific categories of public land transport.”

## **5 SHIPPING ACT [CAP 53]**

### **Subsection 28A (3)**

Supprimer “un inspecteur attitre de brevets ”, remplacer “Un agent d’octroi de brevets”

**Note: No amendments required for English text.**

## **6 Trademarks Act No. 1 of 2003**

### **After subsection 105 (1)**

Insert

“(1A) Without limiting subsection (1), the Regulations may prescribe the requirements for the annual maintenance fees for registration of trademarks.”