

REPUBLIC OF VANUATU

BILL FOR THE STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT NO. OF 2020

Explanatory Note

The Bill provides for amendments to the following Acts:

- (a) Civil Status (Registration) Act [CAP 61];
- (b) Disaster Risk Management Act No. 23 of 2019;
- (c) Government Act [CAP 243];
- (d) Land Reform Act [CAP 123];
- (e) Leadership Code Act [CAP 240];
- (f) Maritime (Conventions) Act No. 39 of 2017;
- (g) Meteorology, Geological Hazards and Climate Change Act No. 25 of 2016;
- (h) Protection of Traditional Knowledge and Expressions of Culture Act No. 21 of 2019;
- (i) Public Solicitor Act [CAP 177];
- (j) Representation of the People Act [CAP 146];
- (k) Reserve Bank of Vanuatu Act [CAP 125];
- (l) State Law Office Act [CAP 242];
- (m) Teaching Service Act No. 38 of 2013;
- (n) Trademarks Act No. 1 of 2003;
- (o) United Nations Financial Sanctions Act No. 6 of 2017.

Item 1 amends the **Civil Status (Registration) Act [CAP 61]**

This amendment corrects a typographical error contained in the Act.

Item 2 amends the **Disaster Risk Management Act No. 23 of 2019**

This amendment changes the period during which a state of emergency can be declared under this Act. The amendment now provides that a state of emergency declared under the Act is to last for such period as determined by the Commission and approved by the Council of Ministers. This removes the 30-day duration of a state emergency as currently provided under the Act.

Item 3 amends the **Government Act [CAP 243]**

This amendment provides that the Prime Minister, Deputy Prime Minister and each Minister are entitled to 6 political advisors each.

Item 4 amends the **Land Reform Act [CAP 123]**

The Act currently has two different definitions of “custom owners” and “Minster” which creates confusion in the Act as to which definition is to be used.

This amendment addresses this issue by repealing one definition of each term.

Item 5 amends the **Leadership Code Act [CAP 240]**

This amendment addresses the challenges that the clerk of Parliament is experiencing to effectively implement the provisions of the Leadership Code Act [CAP 240] relating to annual returns of leaders.

The amendment removes the term “clerk of Parliament” and replaces it with the “Ombudsman” who will now be responsible to receive annual returns from the leaders.

Item 6 amends the **Maritime (Conventions) Act No. 39 of 2017**

This amendment provides for additional Maritime Conventions and Protocols that have been ratified by Parliament and need to be listed in the Schedule of the Maritime (Conventions) Act No. 39 of 2017.

Item 7 amends the **Meteorology, Geological Hazards and Climate Change Act No. 25 of 2026**

This amendment adds to the composition of the National Advisory Board on Climate Change and Disaster Risk Reduction, the following directors to assist the Board in carrying out its functions more effectively:

1. Director of the Department of Education; and
2. Director of the Department of Health; and
3. Director of the Department Agriculture; and

4. Director of the Department of Water Resource.

Item 8 amends the **Protection of Traditional Knowledge and Expressions of Culture Act No. 21 of 2019**

This amendment changes the definition of Minister under the Act from being the Minister responsible for Intellectual Property to now the Minister responsible for Culture.

This amendment is done as the definition of Minister Responsible for Intellectual Property does not reflect the intention of the Act to cater for homegrown intellectual property that have their origin fundamentally from the culture of the people of the Republic of Vanuatu.

Item 9 amends the **Public Solicitor Act [CAP 177]**

This amendment increases the term of office for the Public Solicitor from 4 years to 5 years. This is to ensure that the term of office of the Public Solicitor is consistent with the term of office of the Public Prosecutor and the Attorney General.

The Bill also provides for a transitional provision for the person who has been appointed as the Public Solicitor before the commencement of this Act. This person is to continue to serve as the Public Solicitor for the period of 5 years.

Further amendments provide for the appointment of legal officers that will be assisting the Public Solicitor, who are to be appointed by the Judicial Services Commission.

Item 10 amends the **Representation of the People Act [CAP 146]**

The national ID card will be another verification of identity prior to casting a vote. This will allow voters to present either the electoral card or the national ID card at the polling station to exercise their right to vote.

Furthermore, this amendment empowers the electoral commission to make orders relating to the procedures for the use of a national ID card in an election and the duties of the polling clerks in respect of the use of national ID cards for voting.

This amendment also inserts “of VT” in the figure relating to the election deposit under paragraph 25(1)(b).

Item 11 amends the **Reserve Bank of Vanuatu Act [CAP 125]**

This amendment removes the Governor of the Reserve Bank as the Chairperson of the Board and empowers the Minister to appoint the Chairperson of the Board from amongst its members.

This is being done in order to avoid uncertainty in the management of the institution particularly when it comes to accountability, management of the Bank and policy formulation. The Governor is removed as Chairperson to focus more on the Management of the Bank while a Chairperson

appointed by the Minister from amongst the members of the board is to lead the Board in policy formulation.

Item 12 amends the **State Law Office Act [CAP 242]**

This amendment increases the term of office for the Attorney General from 3 years to 5 years. This is to ensure that the term of office of the Attorney General is consistent with the term of office of the Public Prosecutor and Public Solicitor.

The Bill also provides for a transitional provision for the person who has been appointed as Attorney General before the commencement of this Act. This person is to continue to serve as the Attorney General for the period of 5 years.

Item 13 amends the **Teaching Service Act No. 38 of 2013**

This is a consequential amendment to the National University of Vanuatu Act No. 34 of 2019. The amendment is necessary as the National University of Vanuatu Act repeals references to the Vanuatu Institute of Technology Act [CAP 274] and the Vanuatu Institute of Teacher Education Act [CAP 275].

Item 14 amends the **Trademarks Act No. 1 of 2003**

This amendment provides for the requirements of the address of service of an applicant.

Currently the Act is not clear as to who is required to provide their address of service. Furthermore, the Vanuatu Intellectual Property Office has been facing a lot of difficulties when attempting to serve owners of registered trademarks.

This amendment provides clearly who must provide an address of service and will avoid future difficulties when attempting to serve owners of registered trademarks.

The Act further provides that where the owner of a trademark operates from overseas, his or her address of service must be an address of an agent that has been approved by the Registrar. This is to ensure that all persons acting as agents are professional to assist the Office in the performance of its functions under the Act.

Item 15 amends the **United Nations Financial Sanctions Act No. 6 of 2017**

This is a consequential amendment to the Government Act [CAP 243] (the Act). This amendment is necessary to delete all references to the “National Security Advisory Committee” in this Act because the name of the “National Security Advisory Committee” under the Act has changed to the “National Sanctioning Committee”.

Prime Minister



REPUBLIC OF VANUATU

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Arrangement of Sections

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REPUBLIC OF VANUATU

BILL FOR THE STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT NO. OF 2020

An Act to provide for the 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) Civil Status (Registration) Act [CAP 61];
- (b) Disaster Risk Management Act No. 23 of 2019;
- (c) Government Act [CAP 243];
- (d) Land Reform Act [CAP 123];
- (e) Leadership Code Act [CAP 240];
- (f) Maritime (Conventions) Act No. 39 of 2017;
- (g) Meteorology, Geological Hazards and Climate Change Act No. 25 of 2016;
- (h) Protection of Traditional Knowledge and Expressions of Culture Act No. 21 of 2019;
- (i) Public Solicitor Act [CAP 177];
- (j) Representation of the People Act [CAP 146];
- (k) Reserve Bank of Vanuatu Act [CAP 125];
- (l) State Law Office Act [CAP 242];

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- (m) Teaching Service Act No. 38 of 2013;
 - (n) Trademarks Act No. 1 of 2003;
 - (o) United Nations Financial Sanctions Act No. 6 of 2017.

2 Repeal of the 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

- (1) Subject to subsections (2), (3) and (4), this Act commences on the day on which it is published in the Gazette.
- (2) Item 3 is taken to have commenced on 24 September 2004.
- (3) Item 9 commences on the date on which the Public Solicitor (Amendment) Act No. 9 of 2011 is published in the Gazette.
- (4) Item 13 is taken to have commenced on 24 January 2020.

SCHEDULE

MINOR AMENDMENTS

1 CIVIL STATUS (REGISTRATION) ACT [CAP 61]

Subsection 14A(2)

Delete “under” (first occurring)

2 DISASTER RISK MANAGEMENT ACT NO. 23 OF 2019

Subsection 34(3)

Delete “ends 30 days after the day on which it is made”, substitutes “is for a period as recommended by the Committee and approved by the Council of Ministers”

3 GOVERNMENT ACT [CAP 243]

Subsection 17(2)

Repeal the subsection, substitute

“(2) The number of political advisors for the Prime Minister, Deputy Prime Minister and each Minister is limited to 6 political advisors each.”

4 LAND REFORM ACT [CAP 123]

(a) Section 1 (definition of “custom owners” (first occurring))

Repeal the definition.

(b) Section 1 (definition of “the Minister”)

Repeal the definition.

5 LEADERSHIP CODE ACT [CAP 240]

(a) Subsection 4(1) (definition of “Clerk”)

Repeal the definition.

(b) Subsection 31(2)

Delete “clerk of the Parliament”, substitute “Ombudsman”

(c) Section 32

Delete “Clerk” (wherever occurring), substitute “Ombudsman”

(d) Paragraph 33(a)

Delete “Clerk”, substitute “Ombudsman”

6 MARITIME (CONVENTIONS) ACT NO. 39 OF 2017

Schedule - Paragraph (l)

Delete “.”, substitute “; and

- (m) International Convention on Maritime Search and Rescue, 1979 (SAR 1979); and
- (n) Convention of the Intergovernmental Maritime Consultative Organization; and
- (o) Amendments to the Convention on the International Maritime Organization (Institutionalization of the Facilitation Committee); and
- (p) Amendments to the Convention on the International Maritime Organization; and
- (q) Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto; and
- (r) Convention on the Prevention of Marine Pollution by Dumping Wastes and other Matter, 1972 (LC 1972); and
- (s) 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (LC PROT 1996); and
- (t) International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (INTERVENTION 1969); and
- (u) Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil, 1973, (INTERVENTION PROT 1973); and

- (v) Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC PROT 92); and
- (w) Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (FUND PROT 92); and
- (x) Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC 1976).”

7 METEOROLOGY, GEOLOGICAL HAZARDS AND CLIMATE CHANGE ACT NO. 25 OF 2016

After paragraph 8(1)(n)

Insert

- “(na) Director of the Department of Education; and
- (nb) Director of the Department of Health; and
- (nc) Director of the Department of Agriculture; and
- (nd) Director of the Department of Water Resource;”

8 PROTECTION OF TRADITIONAL KNOWLEDGE AND EXPRESSIONS OF CULTURE ACT NO. 21 OF 2019

Section 1 (Definition of Minister)

Repeal the definition, substitute

“**Minister** means the Minister responsible for culture”

9 PUBLIC SOLICITOR ACT [CAP 177]

(a) Subsection 2(3A)

Delete “4 years”, substitute “5 years”

(b) Subsection 2(4)

Repeal the subsection, substitute

“(4) The Public Solicitor may be assisted by legal officers, who are to be appointed by the Judicial Service Commission.”

Transitional Provision

The person who was appointed as the Public Solicitor before the commencement of this Act will continue to serve as the Public Solicitor for the period set out under subsection 2(3A).

10 REPRESENTATION OF THE PEOPLE ACT [CAP 146]

(a) Section 1

Insert in its correct alphabetical position:

““national ID card” means the national identification card issued to a person by the Department of Civil Registry and Vital Statistics;”

(b) Paragraph 25(1)(b)

Delete “100,000”, substitute “of VT100,000”

(c) Section 31(heading)

After “cards”, insert “or national ID cards”

(d) Subsection 31(2)

After “card”, insert “or national ID card”

(e) After paragraph 69(1)(c)

Insert

“(ca) the procedures for the use of national ID cards in an election;

(cb) the duties of the polling clerk in respect of the use of national ID cards for voting;”

(f) Subclauses 3(2) and 8(2) of Schedule 5

Delete “identification card”, substitute “national ID card”

11 RESERVE BANK OF VANUATU ACT [CAP 125]

(a) After subsection 8(4A)

Insert

“(4B) The Minister is to appoint the Chairperson of the Board from amongst the members of the Board (other than the Governor) referred to under subsection (3).”

(b) Subsection 8(5)

Delete “The Governor who is the Chairperson”, substitute “The Chairperson”

12 STATE LAW OFFICE ACT [CAP 242]

(a) Subsection 9(1)

Delete “3 years”, substitute “5 years”

(b) Subsection 25A(1)

After “may,”, insert “on the recommendation of the Attorney General,”

Transitional Provision

The person who was appointed as the Attorney General before the commencement of this Act will continue to serve as the Attorney General for the period set out under subsection (9)(1).

13 TEACHING SERVICE ACT NO. 38 OF 2013

(a) Section 4 (definition of “Institute”)

Repeal the definition.

(b) Paragraph 9(c)

Delete “teachers in institutes and”

(c) Subsection 37(1)

Delete “and Institutes”

(d) Subsection 37(2)

Delete “Institutes and”

(e) Subsection 42(2)

Delete “and Institute”

(f) Subsection 54(3)

(i) Delete “or Institute”

- (ii) Delete “If the minor disciplinary issue concerns a principal of an Institute, it is to be dealt with by the Commission.”

14 TRADEMARKS ACT NO. 1 OF 2003

Section 102

Repeal the section, substitute

“ADDRESS FOR SERVICE

102. (1) An applicant must ensure that the address for service provided in an application must be:
- (a) in the case where the applicant operates from outside of Vanuatu – the address of an approved agent, authorised by the applicant to act on the applicant’s behalf; or
 - (b) in the case where the applicant operates from Vanuatu:
 - (i) the residential address of the applicant in Vanuatu; or
 - (ii) the address of the place of operations of the applicant in Vanuatu; or
 - (iii) the address of an approved agent authorised by the applicant to act on the applicant’s behalf.
- (2) For the purposes of paragraph (1)(a) and subparagraph (b)(iii), an “approved agent” means a person approved by the Registrar as an approved agent under subsection 102A(1).
- (3) The applicant must ensure that the Registrar is informed of any changes to the address of service.
- (4) The Registrar is to register the address of service of the applicant in the Register of Trademarks.

APPROVED AGENTS

- 102A. (1) The Registrar may approve persons as approved agents to be engaged by a person who intends to register a trademark.
- (2) An applicant must not authorise any person to act on his or her behalf unless that person is an approved agent.
- (3) The Register may by Regulations set out the process and criteria for the selection of approved agents.”

15 UNITED NATIONS FINANCIAL SANCTIONS ACT NO. 6 OF 2017

Whole of the Act

Delete “National Security Advisory Committee” (wherever occurring), substitute “National Sanctioning Committee”