

# 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) Business Licence Act [CAP 249];
- (b) Foreign Service Act No. 20 of 2013;
- (c) Government Contracts and Tenders Act [CAP 245];
- (d) Industrial Development Act No. 19 of 2014;
- (e) Penal Code Act [CAP 135];
- (f) Public Holidays Act [CAP 114];
- (g) Public Roads Act No. 35 of 2013
- (h) Quarantine Act [CAP 1];
- (i) Road Traffic (Control) Act [CAP 29];
- (j) State Law Act [CAP 242];
- (k) Trademarks Act No. 1 of 2003.

Item 1 amends the **Business Licence Act [CAP 249]**.

This amendment is part of the Government's COVID-19 stimulus package.

Item (a) provides that a person who has paid the business license fee (in part or in whole) for the period of 1 January to 31 March 2020, is exempted to make payment until 31 December 2021.

Item (b) also provides that a person who has obtained a business license without making payment of the business license fee for the year 2020, is exempted to make payment for the business license fee for the year 2020 only.

Item (c) provides that the rate of business licence fee for Commercial Banks (Category F1 business licence) is, with effect from 1 January 2020, reduced from 7% to 5%.

Item 2 amends the **Foreign Service Act No. 20 of 2013**.

This item corrects a typographical error contained in the Act.

Item 3 amends the **Government Contracts and Tenders Act [CAP 245]**.

Item (a) provides that the Government Remuneration Tribunal and not the Public Service Commission is responsible to remunerate the Chairperson of the Central Tenders Board. This change is necessary as the Chairperson is not appointed by the Public Service Commission, therefore, the Commission cannot determine the terms and conditions of his or her appointment, particularly in relation to remuneration.

Item (b) provides that the Minister may appoint any person who is not currently a member of the Board as its Acting Chairperson. This amendment is necessary to resolve the problem of not being able to have the required quorum for the Board to meet when Acting Chairperson has been appointed from amongst the members of the Board.

Item 4 amends the **Industrial Development Act No. 19 of 2014**.

Item (a) provides that the 5 years period for the validity of an industrial permit is to be changed to 1 year. This is to boost the operation of registration and application for an industrial permit.

Item (b) also empowers the Department of Industry to develop Industrial Development Programmes relating to the development of brands for products that are made, grown, produced or designed in Vanuatu.

Item 5 amends the **Penal Code Act [CAP 135]**.

Item (a) makes it an offence to use threatening language against another person.

Item (b) also repeals sections 120 and 121 of the Act and substitutes them with new provisions, as the previous provision does not appropriately reflect the criminal elements of criminal libel and slander. The new provisions now extend the offence of criminal libel and slander to cover the use of defamatory statement not only made in public but also on the internet.

Item 6 amends the **Public Holidays Act [CAP 114]**.

The Act currently provides that all business throughout Vanuatu are to be closed on public holidays (with exception to only a few type of business). This makes it unlawful for businesses such as banks to cater for the need of people during periods of public holidays. This item empowers that the President may prescribe additional types of business that may remain open during a public holiday.

This item also merges Lini Day and Custom Chief's Day into one public holiday. This public holiday is to be called National Leaders' Day and is to occur on 5 March of each year. The new National Leaders' Day is intended to celebrate all national leaders in just one public holiday.

Item 7 amends the **Public Road Act No. 35 of 2013**.

This item amends the commencement period on which all Regulations made under this Act are to take effect. Currently the Act provides that all Regulations are to commence on the date on which they are published in the Gazette. The commencement of all Regulations will now be commencing on the day it is made.

Item 8 amends the **Quarantine Act [CAP 1]**.

This item amends the definition of “communicable disease” to mean notifiable disease as defined in the Public Health Act [CAP 234]. This will allow the Act to include all the incoming and unexpected diseases in the world such as COVID-19.

Item 9 amends the **Road Traffic (Control) Act [CAP 29]**

This item provides for changes to the payment of road tax fees only for the year 2020 due to COVID-19. The item provides that a person who has paid road tax for the year 2020 before 1 April 2020, is not entitled to credit or refund for road tax fees of 2020. The item also provides that a person who has paid road tax on or before 31 March 2020, is exempted from paying road tax until 31 December 2021.

Item 10 amends the **State Law Office Act [CAP 242]**.

This item corrects an error in subsection 18(1) relating to the appointment of legal officers.

Item 11 amends the **Trademarks Act No. 1 of 2003**.

This item provides for the change of the period of the application for registration of Trademark to be published in the Gazette from 28 days to 90 days. This is to provide sufficient time for the application, registration and publication of the application details.

**Prime Minister**



**REPUBLIC OF VANUATU**

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

**Arrangement of Sections**

<b>1</b>	<b>Amendment .....</b>	<b>2</b>
<b>2</b>	<b>Repeal of the Act .....</b>	<b>2</b>
<b>3</b>	<b>Commencement.....</b>	<b>3</b>
	<b>SCHEDULE</b>	<b>4</b>

# 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) Business Licence Act [CAP 249];
- (b) Foreign Service Act No. 20 of 2013;
- (c) Government Contracts and Tenders Act [CAP 245];
- (d) Industrial Development Act No. 19 of 2014;
- (e) Penal Code Act [CAP 135];
- (f) Public Holidays Act [CAP 114];
- (g) Public Roads Act No. 35 of 2013;
- (h) Quarantine Act [CAP 1];
- (i) Road Traffic (Control) Act [CAP 29];
- (j) State Law Office Act [CAP 242];
- (k) Trademarks Act No. 1 of 2003.

### **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 subsection (2), this Act commences on the day on which it is published in the Gazette.
- (2) Amendments (b) and (c) in item 1 relating to the Business Licence Act [CAP 249], is taken to have commenced on 1 January 2020.

## SCHEDULE

### MINOR AMENDMENTS

#### 1 BUSINESS LICENCE ACT [CAP 249]

##### (a) After subsection 18(5)

Insert

- “(6) Despite the provisions of this Act or any other Act, all owners of businesses are exempted from paying the business licence fee for the year ending 31 December 2020.
- (7) If the owner of a business has paid the business licence fee for the year ending 31 December 2020 on or before 31 March 2020:
- (a) that person is exempted from paying the business licence fee until 31 December 2021; and
  - (b) that person is not entitled to a refund or credit for the amount exempted.
- (8) To avoid doubt:
- (a) subsection (6) does not apply to Category F1 of Schedule 1; and
  - (b) subsection (7) applies to a person who has either paid the business licence fee in part or in whole.”

##### (b) Section 18A

Repeal the section.

##### (c) Schedule 1, Column 2, Class F, Category F1, Commercial Banks

Delete “7.00% of turnover for the licencing year subject to a minimum fee of 5,500,000”, substitute “5.00% of turnover for the licensing year subject to a minimum fee of 5,000,000”

#### 2 FOREIGN SERVICE ACT NO. 20 OF 2013

##### Subsection 42B(2)

Delete “, the Director General of the Director General,”, substitute “or the Director General”

**3 GOVERNMENT CONTRACTS AND TENDERS ACT [CAP 245]**

**(a) Subsection 11(4)**

Delete “Public Service Commission”, substitute “Government Remuneration Tribunal”

**(b) Subsection 11(9)**

Delete “from amongst the members of the Board”

**4 INDUSTRIAL DEVELOPMENT ACT NO. 19 OF 2014**

**(a) Subsection 4(4)**

Delete “5 years”, substitute “1 year”

**Transitional**

A person who has been issued with a permit before the commencement of this Act, must renew that permit within a period of 6 months from the commencement of this Act.

**(b) Paragraph 13(3)(e)**

Delete “indigenous brands for manufactured products”, substitute “brands for products made, grown, produced or designed in Vanuatu”

**5 PENAL CODE [CAP 135]**

**(a) After section 114**

Insert

**“114A. Threatening language**

(1) A person must not use threatening:

(a) written, spoken or automated words; or

(b) gestures,

towards another person.

(2) A person who fails to comply with subsection (1), commits an offence punishable on conviction to imprisonment for a term not exceeding 3 years.”

**(b) Sections 120 and 121**

Repeal the sections, substitute



**“120. Criminal Libel**

- (1) A person must not make a false written representation on any public platform that is likely to:
  - (a) expose another person to public hatred, contempt, or ridicule; or
  - (b) injure that person’s profession, reputation, office, business, trade or occupation.
- (2) In addition to subsection (1), the person must not make a false written representation on any public platform:
  - (a) knowing that the matter is false; or
  - (b) being reckless as to whether or not the matter is false.
- (3) A person who contravenes subsections (1) and (2) commits an offence, punishable on conviction, by imprisonment for a term not exceeding 3 years.
- (4) For the purposes of this section:

**false written representation** means any representation that is untrue or misleading made in writing or by use of pictures;

**public platform** includes newspapers, magazines, internet websites, social networking sites, blog sites and any other similar platforms available for public viewing.

**121. Criminal Slander**

- (1) A person must not use any false representation on any public platform that is likely to:
  - (a) expose another person to public hatred, contempt, or ridicule; or
  - (b) injure that person’s profession, reputation, office, business, trade or occupation.
- (2) In addition to subsection (1), the person must not use any false representation on any public platform:
  - (a) knowing that the matter is false; or

- (b) being reckless as to whether or not the matter is false.
- (3) A person who contravenes subsections (1) and (2) commits an offence, punishable on conviction, by imprisonment for a term not exceeding 3 years.
- (4) For the purposes of this section:

**false representation** means any representation that is untrue or misleading made in an oral statement or by reproduced audio or video recordings;

**public platform** includes television, radio, internet websites, social networking sites and blog sites and any other similar platforms available for public viewing.”

## **6 PUBLIC HOLIDAYS ACT [CAP 114]**

### **(a) Paragraph 7(c)**

Delete “.”, substitute “;

- (d) any other businesses as may be prescribed.”

### **(b) After section 7**

Insert

### **“8 Regulations**

The President may, on the advice of the Prime Minister, make Regulations:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for the better carrying out or giving effect to the provisions of this Act.”

### **(c) Schedule**

- (a) Delete “Lini Day (21 February)”
- (b) Delete “Custom Chief’s Day (5 March)”, substitute “National Leaders’ Day (5 March)”

## **7 PUBLIC ROADS ACT NO. 35 OF 2013**

### **Subsection 3(4)**

Repeal the subsection.

## **8 QUARANTINE ACT [CAP 1]**

### **Section 1 (Definition of “communicable disease”)**

Repeal the definition, substitute

““communicable disease” has the same meaning as “notifiable disease” defined in the Public Health Act [CAP 234];”

## **9 ROAD TRAFFIC (CONTROL) ACT [CAP 29]**

### **After section 34(2)**

Insert

“(2A) Despite the provisions of this Act or any other Act, all owners of vehicles are exempted from paying road tax for the year ending 31 December 2020.

(2B) If a person has paid road tax for the year ending 31 December 2020 on or before 31 March 2020:

- (a) that person is exempted from paying the road tax until 31 December 2021; and
- (b) that person is not entitled to a refund or credit for the amount exempted.”

## **10 STATE LAW OFFICE ACT [CAP 242]**

### **Subsection 18(1)**

Delete “and appointed by the Judicial Service Commission”

## **11 TRADEMARKS ACT NO 1. OF 2003**

### **Section 18**

Delete “28”, substitute “90”