

REPUBLIC OF VANUATU

BILL FOR THE STATE FLAG AND ARMORIAL BEARINGS (AMENDMENT) ACT NO. OF 2022

Explanatory Note

This Bill amends the State Flag and Armorial Bearings Act [CAP 107] (“the Act”).

Issues arising from the current provisions of the Act:

- (a) the prescribed application fees and the permit fees for the renewal of a permit is less compared to that of a new permit; and
- (b) there is no provision for breach of a condition of a permit; and
- (c) the Act does not empower relevant officers to conduct inspections in shops and any premises and issue penalty notices to a person who has committed an offence under this Act; and
- (d) the Act does not empower the Minister to make Regulations.

These amendments address these issues and will enable the Act to be effectively implemented.

Deputy Prime Minister and Minister of Internal Affairs



REPUBLIC OF VANUATU

**BILL FOR THE
STATE FLAG AND ARMORIAL BEARINGS
(AMENDMENT)
ACT NO. OF 2022**

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An Act to amend the State Flag and Armorial Bearings Act [CAP 107].

Be it enacted by the President and Parliament as follows-

1 Amendment

The State Flag and Armorial Bearings Act [CAP 107] 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 STATE FLAG AND ARMORIAL BEARINGS ACT [CAP 107]

1 Section 1

Insert in its correct alphabetical position:

““enforcement officer” means an enforcement officer appointed under section 4;”

2 Subsection 1A(3)

Repeal the subsection.

3 After section 1B

Insert

“1C. Granting of a permit

- (1) The Minister may, upon receiving an application under section 1A, grant a permit with conditions.
- (2) A permit is valid for 1 year.
- (3) A permit granted by the Minister in contravention of subsection 1A(2), is invalid.

1D. Conditions of a permit

The Minister may, by Order, prescribe the conditions of a permit.

1E. Suspension and cancellation of permit

- (1) If the Minister is satisfied that there is a breach of:

- (a) a condition of a permit; or
- (b) a provision of the Act or its Regulations,

the Minister must serve a notice of non-compliance to the permit holder as required under subsection (3).

- (2) In addition to subsection (1), if the Minister is satisfied that there is a serious breach of the permit, the Minister must suspend the permit.
- (3) A notice of non-compliance must specify:

- (a) the conditions of the permit or provision of the Act or its Regulation that was breached; and
 - (b) the actions that the Minister proposes to take; and
 - (c) the period in which rectifications in relation to the breach must be carried out.
- (4) If the permit holder fails to comply with paragraph (3)(c), the Minister must:
- (a) suspend the permit; and
 - (b) serve a notice of suspension to the permit holder; and
 - (c) allow the permit holder to provide reasons why the permit should not be cancelled.
- (5) Subject to subsection (4), any sale or display for sale of a copy of the State Flag, the Presidential Standard or the Armorial Bearings, or a thing so closely resembling any of them must cease until the Minister advises the permit holder that the suspension is lifted.

1F. Cancellation of permit

- (1) If the permit holder fails to comply with paragraph (4)(c), the Minister must cancel the permit and the Minister must serve a notice of the cancellation to the permit holder.
- (2) A person may apply for a new permit after 1 year from the date on which that permit was cancelled.”

4 At the end of section 3

Add

“4. Appointment of enforcement officers

The Minister may appoint the following persons to be enforcement officers for the purposes of this Act:

- (a) a compliance officer of the Ministry of Internal Affairs; and
- (b) an officer of the Corporate Service Unit in the Ministry of Internal Affairs.

5. Functions of an enforcement officers

The functions of an enforcement officer is to ensure that the provisions of this Act are complied with.

6. Powers of an enforcement officer

An enforcement officer has the power to do all things that are necessary or convenient to be done for or in connection with the performance of his or her functions under this Act.

7. Inspection

- (1) For the purposes of implementing, inspecting and ensuring compliance with the provisions of this Act and its Regulations, an enforcement officer may:
 - (a) enter and inspect any shop or any premises at any time; or
 - (b) require a person to provide any document including a permit required under this Act or its Regulations, and to make copies of such documents; or
 - (c) exercise any other powers conferred on him or her under this Act or any other Act.
- (2) In carrying out an inspection under subsection (1), all enforcement officers must be present.

8. Seizure

- (1) If an enforcement officer has reasonable grounds to believe an offence against this Act or its Regulation is being or has been committed, he or she must seize any copy of the State Flag, the Presidential Standard or the Armorial Bearings, or a thing so closely resembling any of them.
- (2) The seized copy of the State Flag, the Presidential Standard or the Armorial Bearings, or a thing so closely resembling any of them may be sold, destroyed or disposed of as the Minister may direct.

9. Assistance from the police

- (1) An enforcement officer may request a police officer to assist in the performance of a function or the exercise of a power of an enforcement officer under this Act or any other Act.

- (2) A police officer must assist an enforcement officer if requested to do so by an enforcement officer.

10. Obstruction of an enforcement officer

A person who:

- (a) wilfully obstructs, threatens or uses an insulting language to an enforcement officer or police officer in the exercise of his or her functions or powers under this Act; or
- (b) refuses to allow an enforcement officer or police officer entry for inspection under section 7,

commits an offence and is liable on conviction to a fine not exceeding VT 500,000 or a term of imprisonment not exceeding 1 year, or both.

11. Penalty notice

- (1) An enforcement officer may serve a penalty notice on a person if it appears to the enforcement officer that the person has committed an offence under any provision of this Act.
- (2) A penalty notice is a notice to the effect that if the person served does not wish to have the matter determined by a Court, the person may pay within a time and to a person specified in the notice, the amount of penalty stated in the penalty notice.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is 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 civil proceeding arising out of the same occurrence.
- (6) The Regulations may prescribe the amount of penalty payable for the offence if dealt with under this section.
- (7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty provided for in this Act.

- (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.

12. Immunity

- (1) A civil or criminal proceeding must not be brought against the Minister, an enforcement officer or a police officer, for anything done or omitted to be done in good faith by him or her in the execution or purported executions of his or her functions and powers under this Act.
- (2) Subsection (1) does not apply if the Minister, an enforcement officer or a police officer acted in bad faith in executing his or her functions or powers under this Act.

13. Regulations

The Minister may make Regulations:

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