

REPUBLIC OF VANUATU

BILL FOR THE DISASTER RECOVERY AND RESILIENCE ACT NO. OF 2023

Explanatory Note

The Bill for the Disaster Recovery and Resilience Act (the “Bill”) will provide for the recovery of communities affected by a disaster and to improve the resilience of communities to the impacts of future disasters in Vanuatu.

In addition, this Bill will complement the Disaster Risk Management Act 2019 (“the DRM Act”) as the DRM Act only provides for the response to a disaster, and there is a gap in providing disaster recovery and resilience, which this Bill will provide.

Vanuatu is frequently exposed to a range of natural disasters. Recent estimates undertaken show that expected losses due to natural disasters in Vanuatu far exceed those in almost all other countries in the world. The impact of natural disasters is equivalent to an annualized loss of 6.6 percent of GDP in Vanuatu, and has a large range of social implications. With a changing climate, and changing socio-economic needs and settlement patterns, the impact of increasingly frequent and severe natural disaster events on the country’s people and economy is growing. The anticipated recurrence of disaster events requires that Vanuatu develops effective recovery strategies that are both consistent with development needs and objectives, and that support people to rebuild their lives and livelihoods.

The Vanuatu Government considers natural hazards and disaster risks to be of serious national concern, given the impacts they have on the livelihoods of people in Vanuatu, on national development progress and on the country’s environment more generally. Recent disaster events, such as Category Five Tropical Cyclones Pam (2015) and Harold (2020), highlight the importance of effective disaster recovery strategies and activities.

Key features of the Bill include:

- The establishment of the National Recovery Committee to be the Committee to mainly implement this Act.
- Provision is provided for the Director, Recovery Managers, Government agencies and emergency services officers to assist in the enforcement and ensuring the compliance with the Act.
- Provision for the Declaration for a disaster recovery to be made after a State of Emergency is declared under the DRM Act ceases. This is to provide for recovery activities to affected communities.

- Provisions for International Disaster Recovery Assistance from international actors to provide any form of assistance for recovery to a disaster.
- The establishment of an Emergency Recovery Fund to collect monies appropriated, contributions, donations and other monies for the purpose of this Act.

Prime Minister



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REPUBLIC OF VANUATU

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An Act to regulate the recovery from and resilience to disasters and for related matters.

Be it enacted by the President and Parliament as follows-

PART 1 INTERPRETATION

1 Interpretation

In this Act, unless the contrary intention appears:

Committee means the National Recovery Committee established under section 2;

Declaration means a Declaration of disaster recovery made under section 14;

Director means the Director of the Department of Strategic Policy, Planning and Aid Coordination;

Director General means the Director General of the Office of the Prime Minister;

disaster means a serious disruption of the functioning of a community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more losses and impacts of the following nature:

- (a) human; or
- (b) material; or
- (c) economic; or
- (d) environment;

emergency services officer means:

- (a) an officer of the emergency service providers; or

(b) any other person appointed by the Director for the purposes of this Act;

emergency service providers includes police, fire service, ambulance, medical teams, Government agencies and other service providers as authorised by the Director during a Declaration;

Fund means the Emergency Recovery Fund established under subsection 23(1);

Government agency means:

- (a) a Ministry; or
- (b) an office or body established under the Constitution; or
- (c) an office or body established under an Act of Parliament; or
- (d) a prescribed Government agency;

Minister means the Minister responsible for disaster recovery;

international actors means international aid, humanitarian, multilateral and bilateral partners of the Government of Vanuatu, Non-Government Organisations, United Nations Government agencies, civil society and faith-based organisations;

international disaster recovery assistance means disaster recovery assistance that is:

- (a) provided by international actors; or
- (b) imported or otherwise brought into Vanuatu from abroad by or on behalf of States, including military assistance; and
- (c) provided by or on behalf of multilateral and bilateral partner of the Government of Vanuatu and individuals;

National Disaster Recovery Framework means the guidelines to enable and promote effective recovery support to disaster impacted areas;

recovery activity means an activity to deal with the consequences of a disaster, which may include, but is not limited to, all or any of the following:

- (a) the assessment and ongoing monitoring of the needs of a community affected by the disaster;

- (b) the co-ordination and integration of planning, decisions, actions, and resources;
- (c) the measures to support:
 - (i) the regeneration, restoration, and enhancement of communities across the man-made, natural, social, and economic environments;
 - (ii) the cultural and physical well-being of individuals and their communities;
 - (iii) the Government and non-government organisations and entities working together;
- (d) the measures to enable community participation in recovery planning;
- (e) the new measures:
 - (i) to reduce risks from disasters;
 - (ii) to build resilience;

Recovery Manager means a person appointed as a Recovery Manager under subsection 11(1).

PART 2 NATIONAL RECOVERY COMMITTEE

2 Establishment of National Recovery Committee

The National Recovery Committee is established.

3 Composition of the Committee

The Committee consists of the following persons:

- (a) the Director General; and
- (b) the Director General of the Ministry of Finance and Economic Management; and
- (c) the Director General of the Ministry of Foreign Affairs, International Cooperation and External Trade; and
- (d) the Director General of the Ministry of Internal Affairs; and
- (e) the Director General of the Ministry of Infrastructure and Public Utilities; and
- (f) the Director General of the Ministry of Climate Change; and
- (g) the Director General of the Ministry of Education and Training; and
- (h) the Director General of the Ministry of Agriculture, Livestock, Forestry, Fisheries and Biosecurity; and
- (i) the Director General of the Ministry of Land and Natural Resources; and
- (j) the Commissioner of Police.

4 Functions of the Committee

The Committee has the following functions:

- (a) to approve and coordinate medium and long-term recovery programmes; and
- (b) to ensure the effective implementation of medium and long-term recovery programmes; and
- (c) to ensure any recovery programme is aligned with the objectives of the National Sustainable Development Plan; and

- (d) to oversee the application and implementation of the National Disaster Recovery Framework and other disaster recovery plans approved by the Minister; and
- (e) to report to the Post Disaster Needs Assessment of or on behalf of the Government; and
- (f) to oversee the development of disaster recovery plans by Government agencies, bilateral and multilateral partner Government agencies of the Government of Vanuatu, civil society and the private sector; and
- (g) to administer and report on development assistance, including funding for recovery activities provided by the development partners and the Government for the purpose of medium and long-term recovery programmes.

5 Powers of the Committee

- (1) The Committee has the power to do all things necessary or convenient to be done, for or in connection with the performance of its functions under this Act.
- (2) Without limiting subsection (1), the Committee may:
 - (a) require an Government agency to make available to the Committee its vehicles, plant, office space, equipment or personnel as are necessary for the purposes of a recovery activity; and
 - (b) give written orders to emergency service providers to respond to a recovery activity.

6 Sub-committees

- (1) The Committee may establish sub-committees to assist it in carrying out its functions under this Act.
- (2) The Committee is to determine the functions and procedures of the sub-committees.

7 Chairperson and Deputy Chairperson of the Committee

- (1) The Director General is the Chairperson of the Committee.
- (2) The members are to elect from amongst themselves a Deputy Chairperson of the Committee.
- (3) The Deputy Chairperson is to hold office for a period of 3 years and is eligible for re-election.

- (4) The Deputy Chairperson may resign from his or her office in writing to the Chairperson.

8 Meetings of the Committee

- (1) The Committee is to meet once a month and may hold such other meetings as are necessary for the proper performance of its functions under this Act.
- (2) The Chairperson is to preside at all meetings of the Committee and in his or her absence, the Deputy Chairperson is to preside at these meetings.
- (3) The Disaster Recovery Coordination Unit is the secretariat of the Committee.
- (4) The quorum of the Committee is 6 members of the Committee present at the meeting, including the Chairperson or in the absence of the Chairperson, the Deputy Chairperson.
- (5) During a Declaration, if a quorum is not present, the Chairperson may make decisions with a quorum of 4 members present at a meeting.
- (6) A member present at a meeting of the Committee has one vote and issues arising at a meeting are to be decided by a majority of votes.
- (7) If the voting at the meeting is equal, the Chairperson or the Deputy Chairperson (if he or she is presiding at the meeting) has a casting vote.
- (8) Subject to this Act, the Committee may determine and regulate its own procedures.

PART 3 DIRECTOR, RECOVERY MANAGERS AND RESPONDING GOVERNMENT AGENCIES

Division 1 Functions and powers of the Director

9 Functions of the Director

The Director has the following functions:

- (a) to administer the National Disaster Recovery Framework; and
- (b) to supervise Recovery Managers; and
- (c) to advise the Committee on the recovery priorities; and
- (d) to provide updates on the recovery projects to the Committee.

10 Power of the Director

The Director has the power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions under this Act.

Division 2 Recovery Managers and responding Government agencies

11 Appointment of Recovery Managers

- (1) The Minister is to, during a Declaration and on the recommendation of the Committee, appoint:
 - (a) a Secretary General of a Provincial Government Region; or
 - (b) a Clerk of a Municipality; or
 - (c) a Government official,as a Recovery Manager for the purposes of enforcing and ensuring compliance with this Act.
- (2) The powers and functions of a Recovery Manager must be stated in his or her instrument of appointment.
- (3) To avoid doubt, a person ceases to be a Recovery Manager upon the Declaration he or she is appointed under ceases.

12 Functions of the Vanuatu Police Force during a Declaration

- (1) The Vanuatu Police Force has the following functions during a Declaration:
- (a) to assist with the clearing of roads or other public infrastructures; and
 - (b) to assist with maintaining or repairing of damaged roads, buildings or facilities; and
 - (c) to assist with the evacuation of people and the distribution of disaster relief in affected communities; and
 - (d) to provide security during a recovery activity; and
 - (e) to have a liaison officer within the Recovery Operation Centre when it is activated.

13 Coordination of recovery activity with emergency service providers

The Committee is to coordinate any recovery activity in collaboration with emergency service providers.

PART 4 DECLARATION OF DISASTER RECOVERY

14 Declaration of disaster recovery

The President may, by Order, on the advice of the Council of Ministers, declare that a disaster recovery exists in whole, or a specified part or parts of Vanuatu if the President is satisfied that:

- (a) the state of emergency declared under the Disaster Risk Management Act No. 23 of the 2019 has ceased; and
- (b) the communities affected exceed their capabilities to recover from a disaster.

15 Broadcasting of Declaration

After a Declaration under section 14, the Minister must inform the public of the Declaration through the media.

16 Duration of the Declaration

- (1) A Declaration has effect immediately on the day it is made.
- (2) The Declaration does not prevent the declaration of a further disaster recovery in relation to the same or a different disaster.
- (3) The duration of a Declaration is as follows:
 - (a) for a medium-term recovery programme- ends 90 days after the day on which the Declaration is made; or
 - (b) for a long-term recovery programme- ends 5 years after the day on which the Declaration is made.
- (4) The President may, on the advice of the Council of Ministers:
 - (a) revoke the Declaration sooner if it is no longer necessary for emergency services officers to exercise the emergency powers under this Act; or
 - (b) extend the Declaration for a further period as recommended by the Committee and approved by the Council of Ministers.
- (5) The Committee must advise in writing, the emergency services officers to cease exercising their powers if the President revokes the Declaration under paragraph (4)(a).

- (6) The Committee must ensure that a revocation of a Declaration under paragraph (4)(a) and an extension of a Declaration under paragraph (4)(b), is broadcasted by the media.

17 Minister's power to direct Government agencies

- (1) If a Declaration is in force, the Minister may, on the advice of the Committee, direct any Government agency to do or refrain from doing any act or to exercise or refrain from exercising any function.
- (2) If a direction is given to a Government agency under this section, the Government agency must comply with the direction despite the provisions of any other Act.
- (3) The Minister must inform the Council of Ministers of any direction given under subsection (1).

18 Other special powers when Declaration is in force

- (1) The powers in this section apply only during a Declaration.
- (2) If the Committee is satisfied that it is necessary in the interest of safety, it may authorize an emergency services officer:
- (a) to direct a person to do any or all of the following:
 - (i) to leave particular premises and to move out of a recovery area; or
 - (ii) to take any children or adults present in particular premises who are in that person's care and to move them out of a recovery area; or
 - (iii) to not enter into a recovery area; or
 - (b) to close traffic on any street, road, lane, thoroughfare or footpath or place open to or used by the public in a recovery area; or
 - (c) to close any other public or private place in a recovery area; or
 - (d) to order any wall or premises that have been damaged or rendered insecure in a recovery area to be pulled down or repaired at the expense of the owner; or
 - (e) to shut off or disconnect the supply of any water, gas or electricity in a recovery area; or

- (f) to take possession of, and remove, any material or thing in a recovery area that may be dangerous to life or property.
- (3) If the person does not comply with a direction under subsection (2), the emergency services officer may do all such things as are reasonably necessary to ensure compliance with it, using such force as is reasonably necessary in the circumstances.
- (4) The Commissioner of Police may exercise the powers of the Committee set out under subsection (2).

PART 5 FACILITATION OF INTERNATIONAL DISASTER RECOVERY ASSISTANCE

Division 1 Request for International Disaster Recovery Assistance

19 Request for international disaster recovery assistance

- (1) The Committee may make a recommendation to the Council of Ministers that international disaster recovery assistance is required.
- (2) The Minister may, on the advice of the Council of Ministers:
 - (a) make a request for international disaster recovery assistance specifically directed to a particular international actor; or
 - (b) make a general request for international disaster recovery assistance directed to the international community as a whole.
- (3) A request made under subsection (2) must be made through the Ministry of Foreign Affairs, International Cooperation and External Trade.

20 Offers and acceptance of international disaster recovery assistance

- (1) International actors must not provide international disaster recovery assistance to affected areas in Vanuatu without having first made an offer and such offer has been accepted under this section, whether or not a request has been made under section 19.
- (2) An offer to provide international disaster recovery assistance must be made in writing and must be directed to the following authorities:
 - (a) in the case of offers made by foreign States and Governments including International Organisations - to the Department of Foreign Affairs and International Cooperation; or
 - (b) in the case of offers made by foreign non-governmental organisations and other individuals - to the Committee.
- (3) The offers made under this section must include the following details:
 - (a) the kind and amount of assistance to be provided; and
 - (b) the estimated duration of assistance to be provided; and
 - (c) confirmation that the international disaster recovery assistance offered has been expressly requested by the Government.

- (4) The Committee may:
- (a) direct the Department of Foreign Affairs and International Cooperation to reject or accept an offer under paragraph (2)(a), in whole or in part and may impose terms and conditions of acceptance of the offer; or
 - (b) reject or accept an offer under paragraph (2)(b), in whole or in part and may impose terms and conditions of acceptance of the offer.
- (5) The Department of Foreign Affairs and International Cooperation must in writing, notify the State, Government or the International Organisation of the decision made under paragraph (4)(a).
- (6) The Committee must in writing, notify the foreign non-government organisations or other individuals of the decision made under paragraph (4)(b).

21 Reporting on international disaster recovery assistance

A non-government organisation must within 90 days after the end of a Declaration:

- (a) provide the Committee with a report of the activities carried out for recovery during the Declaration; and
- (b) provide the Committee with any additional information that it may require about a matter contained in the report.

Division 2 Focal Point Government agency

22 National Recovery Committee to be focal point Government agency

- (1) The Committee is the focal point Government agency between the Government and international actors intending to arrive into Vanuatu.
- (2) The Committee must facilitate and integrate the entry of personnel of international actors into a relevant sector upon arrival in Vanuatu.

PART 6 ESTABLISHMENT OF THE EMERGENCY RECOVERY FUND

23 Establishment of the Emergency Recovery Fund

- (1) The Emergency Recovery Fund is established.
- (2) The Fund consists of:
 - (a) monies appropriated by Parliament; and
 - (b) any contribution or donation by other sources; and
 - (c) any other monies required by this Act or any other Act to be paid into the Fund.

24 Purpose of the Fund

The Fund is to be administered by the Department of Finance for the purposes of this Act.

25 Guidelines for use of the Fund

The Minister, on the recommendation of the Committee, is to prescribe a guideline for the use of the Fund including procedures for urgent request of funds and types of emergencies or recovery for which the funds could be utilized.

PART 7 OFFENCES AND PENALTY

26 Offences

- (1) A person must not:
- (a) obstruct or hinder the carrying of the function of an Government agency, Recovery Manager or emergency service officer; or
 - (b) falsely inform the affected population that he or she is acting on behalf of the Committee with the intention of obstructing a recovery activity; or
 - I distribute false information about a recovery activity; or
 - (d) buy from or sell to, an Government agency or Recovery Manager, any recovery material which are intended for distribution to disaster affected victims; I(e) buy from the recipient disaster affected victims any recovery material received by them; or
 - (f) use force to prevent recovery intended for or consigned to a specific group of disaster affected victims; or
 - (g) divert recovery activities to persons other than the rightful recipient or consignee; or
 - (h) accept, process, use or dispose recovery material not intended for nor consigned to him or her; or
 - (i) misrepresent the source of disaster relief; or
 - (j) substitute or replace recovery material with the same items of inferior quality; or
 - (k) deliberately use false data in support of the request for emergency recovery response; or
 - (l) carry out any recovery activity with liaising or the knowledge of the Committee.
- (2) A person who contravenes any of the provisions under subsection (1) commits an offence and is punishable on conviction:
- (a) in the case of an individual-to a fine not exceeding VT1,000,000 or by a term of imprisonment not exceeding 2 years, or both; or

- (b) in the case of a body corporate- to a fine not exceeding VT3,000,000.

PART 8 MISCELLANEOUS PROVISIONS

27 Immunity

- (1) A civil or criminal proceedings must not be brought against:
- (a) a member of the Committee; and
 - (b) an officer of an Government agency; and
 - (c) a Recovery Manager; and
 - (d) an emergency services officer; and
 - (e) an international actor; and
 - (f) a member of a sub-committee; and
 - (g) any other person nominated by the Committee to carry out its functions under this Act,

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 person under paragraphs (a), (b), (c), (d), (e), (f) and (g) acted in bad faith in executing his or her functions or powers or in dereliction of his or her functions and powers under this Act.

28 Annual Report

The Committee must within 2 months after the end of each year:

- (a) provide the Minister with a report of the activities of the Committee for that year; and
- (b) provide the Minister with any additional information that he or she may require about a matter contained in the report.

29 Regulations

- (1) The Minister may, on the recommendation of the Committee, by Order, make Regulations not inconsistent with this Act for the better carrying out or to give effect to the provisions of this Act.

- (2) Without limiting the generality of subsection (1), the Minister may make Regulations to prescribe standard operating procedures for recovery activities.

30 Commencement

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