

# REPUBLIC OF VANUATU

## **BILL FOR THE LAW COMMISSION (AMENDMENT) ACT NO. OF 2016**

### **Explanatory Note**

This Bill amends the Law Commission [CAP 115].

Item 1 amends the title of the Act by deleting the words “Law Commission” and substituting it with “Law Reform Commission”.

Item 2 provides for any references to “Law Commission”, wherever occurring in the Act, to be referred to as “Law Reform Commission”.

Item 3 amends section 3A by inserting after that section, a new section 3B which provides for the appointment of a Deputy Chairperson.

Item 4 amends paragraph 5(4)(f) by deleting the full-stop “.” and substituting it with “;” to correct the error made under this paragraph.

Item 5 amends paragraph 5(4)(g) by deleting the full-stop “.” and substituting it with semi-colon “;” and a new paragraph (h). Paragraph (h) provides for an additional function of the Secretary to organize meetings of the Commission after consulting with the Chairperson.

Item 6 repeals subsection 6(3) and substitutes it with new subsections (3) and (4). Subsection (3) provides for the Chairperson to preside over all meetings of the Commission and in his or her absence, the Deputy Chairperson is to preside at these meetings. Subsection (4) provides for the Commission to determine and regulate its own procedures.

Item 7 repeals sections 7 and 8 and substitutes it with new sections 7, 7A and 8. Section 7 provides for the functions of the Commission which includes to study and keep under review the laws of Vanuatu and to recommend reforms, to receive proposal for review of a particular area of law from any Ministry or Department, to report to the Minister on the results of the examination of the law and to make recommendations with respect to the reform of that law. The Commission is also required to examine the law to determine whether the law is old-fashioned, unnecessary, incomplete or otherwise defective and needs to be changed to modern conditions, approaches and concepts.

Section 7A provides for the powers of the Commission as having the power to do anything necessary or convenient to perform its functions under this Act or any other Act.

Section 8 provides for the allowances of the members of the Commission. If a member of the Commission including the Chairperson and Deputy Chairperson is absent at a meeting then he or she is not entitled to any allowance.

Item 8 repeals section 9A which is no longer applicable under this Act.

Item 9 repeals sections 10 and 10A and substitutes it with new sections 10 and 10A. Section 10 protects the Commission or an officer of the Commission from any civil or criminal proceedings if he or she has acted in good faith in exercising or performing the powers or functions under this Act.

Section 10A provides for the Ministries and Departments who intend to review their laws to consult with the Commission. The Ministry or Department must not instruct a consultant or any other person or authority to review their laws without the prior written approval of the Commission.

Item 10 repeals paragraph 12(2)(a) and substitutes it with a new paragraph (a) to empower the Minister to provide for the procedural rules for the office of the Commission.

## **Minister of Justice and Community Services**



**REPUBLIC OF VANUATU**

**BILL FOR THE  
LAW COMMISSION (AMENDMENT)  
ACT NO. OF 2016**

**Arrangement of Sections**

<b>1</b>	<b>Amendments</b> .....	<b>2</b>
<b>2</b>	<b>Commencement</b> .....	<b>2</b>

# REPUBLIC OF VANUATU

## BILL FOR THE LAW COMMISSION (AMENDMENT) ACT NO. OF 2016

An Act to amend the Law Commission Act [CAP 115].

Be it enacted by the President and Parliament as follows-

### **1 Amendments**

The Law Commission Act [CAP 115] 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 LAW COMMISSION ACT [CAP 115]

#### **1 Title of the Act**

Delete “Law Commission, substitute “Law Reform Commission”

#### **2 References to “Law Commission”**

Delete “Law Commission” (wherever occurring in the Act), substitute “Law Reform Commission”

#### **3 After section 3A**

Insert

#### **“3B Appointment of a Deputy Chairperson**

- (1) The Chairperson is to appoint from amongst the members of the Commission, a Deputy Chairperson.
- (2) The Deputy Chairperson holds office for 3 years and is eligible for reappointment.”

#### **4 Paragraph 5(4)(f)**

Delete “.”, substitute “;”

#### **5 Paragraph 5(4)(g)**

Delete “.”, substitute

“;

- (h) to organize meetings of the Commission after consultation with the Chairperson.”

#### **6 Subsection 6(3)**

Repeal the subsection, substitute

- “(3) The Chairperson is to preside at all meetings of the Commission and in his or her absence, the Deputy Chairperson is to preside at these meetings.
- (4) Subject to this Act, the Commission may determine and regulate its own procedures.”

#### **7 Sections 7 and 8**

Repeal the sections, substitute

#### **“7 Functions of the Commission**

- (1) The Commission has the following functions:

- (a) to study and keep under review all laws and to recommend reforms particularly in respect to:
    - (i) the removal of anachronisms and anomalies; and
    - (ii) the reflection in the law of the distinctive concepts of custom, the common and civil legal systems and the reconciliation where appropriate of differences in those concepts; and
    - (iii) the development of new approaches to and new concepts of the law in keeping with and responsive to the changing needs of the society, of groups within that society and of individual members of that society; and
  - (b) to carry out, on its own initiative, studies and research of a legal nature as it considers necessary for carrying out its functions, including research relating to other legal systems; and
  - (c) to receive proposals for reviewing a particular area of law from any consultant or any person or authority; and
  - (d) to examine critically a law with respect to the matter mentioned in a proposal; and
  - (e) to report to the Minister on the results of the examination of a law and make recommendations with respect to the reform of that law; and
  - (f) to make law reform proposals to the Minister; and
  - (g) to consult with the Ministry or Department to:
    - (i) review any aspect of the law; and
    - (ii) provide information regarding the review; and
  - (h) to carry out public consultations and to consult any person or group of persons in relation to the law reform proposals.
- (2) In addition to subsection (1), the Commission is to examine the law to which the proposal relates to for the purposes of determining and reporting whether the law:
- (a) is old-fashioned, unnecessary, incomplete or otherwise defective; or

- (b) reflects distinctive concepts of custom law, common law and civil law legal systems, and if appropriate the reconciliation of differences in those concepts; or
  - (c) is to be changed considering modern conditions, approaches and concepts; or
  - (d) must be simplified, codified, repealed or revised.
- (3) The Commission may seek legal opinion from the Attorney General on any matter in relation to the performance of the functions of the Commission under this Act.
  - (4) The Commission may establish working committees to deal with a particular issue relating to any review of law that has been submitted to it.
  - (5) The Commission is to determine the functions and procedures of the working committee.

#### **7A Powers of the Commission**

The Commission 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.

#### **8 Allowance of members**

- (1) A member of the Commission is entitled to an allowance of VT10,000 for each day on which the Commission meets.
- (2) A member of the Commission including the Chairperson and Deputy Chairperson is not entitled to any allowance if he or she is not present during any meeting of the Commission.”

#### **8 Section 9A**

Repeal the section.

#### **9 Sections 10 and 10A**

Repeal the sections, substitute

#### **“10 Protection from liability**

The Commission or an officer of the Commission is not liable to any civil or criminal action or other proceeding for damages for or in respect of an act done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance of a function or power conferred on him or her by this Act.

**10A Duty to consult with the Commission**

- (1) A Ministry or Department who intends to review its laws must consult with the Commission.
  
- (2) A Ministry or Department must not instruct a consultant or any other person or authority to review its laws without the prior written approval of the Commission.”

**10 Paragraph 12(2)(a)**

Repeal the paragraph, substitute

- “(a) the procedural rules of the office of the Commission;”