

REPUBLIC OF VANUATU

BILL FOR THE METEOROLOGY AND GEOLOGICAL HAZARDS AND CLIMATE CHANGE ACT NO. OF 2016

Explanatory Note

The Meteorology Act [CAP 204] came into effect in 1989, some 26 years ago. Since then, there has been major development with regards to the understanding of Atmospheric and Geological Science within Vanuatu.

Vanuatu has been ranked the world's most disaster-prone country in an annual World Risk Report published by the United Nations University's Institute for Environment and Human Security (UNU-EHS).

In 2009, the Council of Ministers amalgamated Geo-Hazards Division into the Vanuatu Meteorological Services, removing it from the Department of Geology, Mines and Water Supply, and made it an integral Division of the Vanuatu Meteorological Service. At that same year, the name of the Department changed to Vanuatu Meteorology and Geo-Hazards Department.

Climate change has become one of the world's most challenging phenomena that needs to be addressed at the highest level. Vanuatu, a small island nation, is not immune to the impacts of climate change. Vanuatu is also part of the climate change Conventions, and has recently ratified the Paris Agreement. Institutional arrangements are needed within the Government set up to address climate change challenges. As such, in 2013, the Council of Ministers created the Ministry of Climate Change with four Departments namely Energy, Environment, Vanuatu Meteorology Geo-Hazards Department and National Disaster Management Office making up the new Ministry. In 2015, the Vanuatu Climate Change Policy was launched.

The understanding of atmospheric and geological science, climate change and climate variability, the understanding of disaster risk reduction, the development of science, technology and early warning system are relevant issues that need to be captured by legislation.

The Bill is divided into 10 Parts.

Part 1 provides for Preliminary matters.

Clause 1 defines terms used throughout the Bill. Clause 2 sets out the objectives of the Bill. Clause 3 provides for the application of the precautionary principle.

Part 2 provides for Administration.

Clause 4 provides that the Director of each Department is responsible for the administration and efficient work of this Act and must advise the Minister and the Director General on all matters relating to this Act. Clause 5 empowers the Director to delegate his or her functions to an officer of the Department or to an authorised officer appointed under clause 6. Clause 6 enables the Director General to appoint authorised officers not being officers of the Department on the recommendation of the Director. However, a person not being an officer of the Department and appointed as an authorised officer is required to undertake a training certified by the Director on the functions of authorised officers specified under this Act.

Part 3 provides for the establishment, composition and functions of the National Advisory Board on Climate Change and Disaster Risk Reduction.

Clause 7 establishes the National Advisory Board on Climate Change and Disaster Risk Reduction. Clause 8 sets out the composition of the Board. It also provides for persons who can be appointed by the Minister as observers at a meeting of the Board. Clause 9 sets out the functions of the Board. Clause 10 provides for the powers of the Board. Clause 11 states that the Director General is to be the Chairperson of the Board. It further requires the Director General to appoint a Deputy Chairperson under paragraph 8(1)(b), (c) or (d). Clause 12 deals with the meetings of the Board. Clause 13 requires a member of the Board to appoint a senior officer to represent him or her at a meeting of the Board if he or she is unable to attend the meeting. Clause 14 requires the corporate services unit of the Ministry to provide secretariat support to the Board. Clause 15 provides for a sitting allowance of VT2, 000 for a member of the Board for each sitting.

Part 4 provides for the functions and powers of the Director of Meteorology.

Clause 16 defines terms that are used for the purposes of this Part. Clause 17 outlines the specific functions of the Director of Meteorology. It requires the Director to perform his or her functions under this Part in the public interest and in particular to promote safe navigation, shipping and civil aviation services and to support trade, tourism, commerce and industry services. It states that the functions relating to issuing of warnings and alert of floods, gales, storm, drought and any other weather condition likely to endanger life or property including the lifting of these warnings are to be performed exclusively by the Director. Clause 18 deals with the powers of the Director.

Part 5 provides for the functions and powers of the Director of Geological Hazards.

Clause 19 defines terms that are used for the purposes of this Part. Clause 20 sets out the specific functions of the Director of Geological hazards. It requires that the function of issuing, a warning and alert of imminent or constant risks from geological hazards, and determine when a warning and alert is to be lifted, is to be performed exclusively by the Director. In addition, it requires the Director to undertake an assessment of the threat caused or likely to be caused by a geological hazard and determine whether an officer of the Department can be located in the vicinity of such geological hazard to carry out a function

authorized under this Act. The Director must not assign the officer to carry out such function if a threat exists. Clause 21 outlines the powers of the Director.

Part 6 deals with the functions and powers of the Director of Climate Change.

Clause 22 covers definition of terms used for the purposes of this Part. Clause 23 sets out the functions of the Director relating to climate change. Clause 24 provides for the powers of the Director.

Part 7 provides for the implementation of certain international conventions.

Clause 25 defines terms used for the purposes of this Part. Clause 26 makes it clear that this part applies to a Convention defined under this Part. Clause 27 deals with the functions of the Director.

Part 8 covers the protection of the assets of the Department.

Clause 28 empowers the Director to protect assets and operations of the Department. Clause 29 empowers the Director to remove structures or objects if such structure or object causes obstruction to the operation of any installation, facility or equipment used by the Department for the purposes of this Act. Clause 30 empowers the Department to display signs at its premises, land, installations, facilities and on any of its equipments, which may give directions to be observed by all persons.

Part 9 provides for offences.

Clause 31 sets out the powers of the Director and authorised officers in enforcing this Act. Clause 32 provides for offences and penalties. Clause 33 deals with penalty notices.

Part 10 provides for miscellaneous provisions.

Clause 34 deals with protection of persons performing functions under this Act. Clause 35 provides for the powers of the Minister to make Regulations for the purposes of this Act. Clause 36 repeals the existing Meteorology Act [CAP 204]. Clause 37 provides for transitional provisions.

Minister of Climate Change Adaptation, Meteorology, Geological Hazards, Energy and Environment

REPUBLIC OF VANUATU

BILL FOR THE METEOROLOGY, GEOLOGICAL HAZARDS AND CLIMATE CHANGE ACT NO. OF 2016

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REPUBLIC OF VANUATU

BILL FOR THE METEOROLOGY, GEOLOGICAL HAZARDS AND CLIMATE CHANGE ACT NO. OF 2016

An Act to provide for the provisions of meteorology, geological hazards and climate change and for related purposes.

Be it enacted by the President and Parliament as follows –

PART 1 PRELIMINARY

1 Interpretation

In this Act, unless the contrary intention appears-

authorised officer means any person appointed by the Director General under section 6;

Board means the National Advisory Board on Climate Change and Disaster Risk Reduction established under section 7;

climate change means any change of climate which:

- (a) is attributed directly or indirectly to human activity that alters the composition of the global atmosphere; and
- (b) affects the hydrosphere, biosphere, cryosphere and lithosphere; and
- (c) is in addition to natural climate variability observed over comparable time periods;

climate change adaptation means a response to the impacts of climate change including:

- (a) addressing adverse effects arising from climate change; or

- (b) the possibility of change on any part of the environment (such as the water resources and rainfall, coastal and foreshore areas, reefs and marine habitats); or
- (c) from harmful weather events and any other event or impact on the environment or human health;

Department means the Department of:

- (a) Meteorology; and
- (b) Geological Hazards; and
- (c) Climate Change;

disaster risk reduction means the concept and practice of reducing disaster risks:

- (a) through systematic efforts to analyse and manage the causal factors of disasters; and
- (b) including through reduced exposure to hazards, lessened vulnerability of people and property, wise management of land and the environment, and improved preparedness for adverse events;

Director means the Director of the:

- (a) Department of Meteorology; and
- (b) Department of Geological Hazards; and
- (c) Department of Climate Change;

Director General means the Director General of the Ministry of Meteorology Geological Hazards and Climate Change;

environment includes all natural, physical and social resources and ecosystems or parts thereof, people and culture and the relationship that exists between these elements;

geological hazards means any geological state that represents or has the potential to develop further into a situation leading to damage or risk, and includes volcanic

activity or eruptions, tsunami, earthquakes and other seismic events, and submarine or surface landslides;

Minister means the Minister responsible for Meteorology, Geological Hazards and Climate Change;

Meteorology means the scientific study of the atmosphere, including changes in atmospheric parameters such as temperature, air pressure and wind direction and involves the weather process and the forecasting of the atmosphere, in the short, medium and long term periods;

meteorological services means services provided in relation to the forecasting of the atmosphere for short, medium and long term periods;

Ministry means the Ministry of Meteorology, Geological Hazards and Climate Change;

NDMO means the National Disaster Management Office established under the National Disaster Act [CAP 267].

2 Objective of the Act

The objectives of this Act are to:

- (a) ensure that high quality services are provided in relation to weather, climate, flood forecasting and geological hazards in Vanuatu; and
- (b) promote capacities of governments, communities and organisations to understand and respond to risks arising from weather events, climate change and geological hazards; and
- (c) specifically address the needs of operators of ships and aircrafts and of tourists, to access all necessary weather forecasts, bulletins, alerts, warnings and information concerning geological hazards which may impact upon the safety of their operations or activities; and
- (d) facilitate the use and application within Vanuatu of relevant information, forecasts, bulletins and warnings generated and disseminated to and by local, regional and international bodies; and
- (e) ensure that the government and the public are informed of matters related to weather, climate and geological hazards, and are able to make effective

use of such information and data, and to respond to warnings and alerts about such events, in order to protect the environment and the safety and welfare of the community.

3 Application of the precautionary principle

- (1) Despite the provisions of any other Act, any person or agency having responsibilities under this Act, or whose functions or powers may relate to the objectives of this Act, are to apply the precautionary principle when discharging their responsibilities and functions, or exercising their powers.

- (2) In addition to subsection (1), the precautionary principle is also applied to ensure that, in the event of a threat of damage to the environment or a risk to human safety and health from weather events, geological hazards and the impacts of climate change within Vanuatu, the lack of scientific evidence certainty regarding the extent of adverse effects is not used as a pretext to prevent or avoid a decision being made to respond to or to minimise the potential adverse effects or risks.

PART 2 ADMINISTRATION

4 Director of Departments

- (1) A Director is responsible for the efficient administration of this Act.
- (2) The Director must advise and assist the Minister and the Director General in matters relating to his or her Department under this Act.

5 Delegation by Director

- (1) A Director may, in writing, delegate to an officer of his or her Department or an authorised officer under paragraph 6(1)(a), any of the Directors powers or functions under this Act, other than the power of delegation.
- (2) A delegation may be in relation to a particular matter or a class of matters.
- (3) The Director may at any time revoke or vary a delegation.
- (4) The Director may exercise a function or power despite delegating the function or power under this section.

6 Appointment of authorised officers

- (1) The Director General may, on the recommendation of a Director, appoint:
 - (a) a suitably qualified and trained person who is not an officer of the Department; or
 - (b) any of the officer of the Department,

to be an authorised officer to perform or exercise any functions or powers that may be performed or exercised for the purpose of this Act for a period of time as determined by the Director General.

- (2) The appointment of an authorised officer is to be published by notice in the Gazette.
- (3) The Director General is to provide to each authorised officer, an identity card that will provide evidence of the identity of that person and of the appointment of that person as an authorised person under this Act.

- (4) An authorised officer who holds an identity card issued under this section must, on the termination of his or her appointment, surrender the identity card to the Director General.

**PART 3 ESTABLISHMENT, COMPOSITION AND
FUNCTIONS OF THE NATIONAL ADVISORY
BOARD ON CLIMATE CHANGE AND DISASTER
RISK REDUCTION**

**7 Establishment of the National Advisory Board on Climate Change
and Disaster Risk Reduction**

The National Advisory Board on Climate Change and Disaster Risk Reduction is established.

8 Composition of the Board

- (1) The Board consists of the following members:
- (a) the Director General; and
 - (b) the Director of the Department of Climate Change; and
 - (c) the Director of the Department of Meteorology; and
 - (d) the Director of the Department of Geological Hazards; and
 - (e) the Director of the Department of Forestry; and
 - (f) the Director of the Department of Energy; and
 - (g) the Director of the Department of Local Authority; and
 - (h) the Director of the Department of Environment; and
 - (i) the Director of the Department of Foreign Affairs; and
 - (j) the Director of the Department of Strategic Management; and
 - (k) the Director of the National Disaster Management Office; and
 - (l) the Director of the Department of Finance; and

- (m) the Director of the Department of Woman's Affairs; and
 - (n) the Director of the Department of Public Works; and
 - (o) the Chief Executive Officer of the Vanuatu Non-Government Organizations (VANGO).
- (2) The Minister may in writing invite any of the following persons as observers to a meeting of the Board:
- (a) the Director of the Vanuatu Cultural Centre; or
 - (b) a representative of the Chamber of Commerce, nominated by National Council of Commerce; or
 - (c) a representative of youths nominated by the National Youth Council; or
 - (d) a person representing academic institutions.
- (3) For the purposes of paragraph (2)(d), **academic institutions** means higher educational institutions such as the University of the South Pacific (USP), Vanuatu Institute of Technology (VIT), Vanuatu Institute of Teachers Education (VITE) and other institutions as may be prescribed by the Minister.

9 Functions of the Board

- (1) The Board has the following functions:
- (a) to act as an Advisory body for all disaster risk reduction and climate change projects, initiatives and activities in Vanuatu; and
 - (b) to endorse a project proposal made to it and to make recommendations and set requirements in relation to the proposed project; and
 - (c) to support the development of disaster risk reduction and climate change projects, initiatives, activities, priorities and policies for Vanuatu; and

- (d) to provide technical advice to the Council of Ministers on matters relating to climate change and disaster risk reduction; and
 - (e) to advise any person on matters relating to the United Nations Framework Convention on Climate Change in which Vanuatu is a party or matters relating to disaster risk reduction; and
 - (f) to carry out such other functions as may be conferred on the Board under this Act or any other Act.
- (2) For the purpose of this section, **project** means a project relating to climate change and disaster risk reduction.

10 Powers of the Board

- (1) The Board has the power to do all things necessary or convenient to be done for or in connection with its functions under this Act.
- (2) Without limiting subsection (1), the Board has the following powers:
 - (a) to enter into contract with any person for the supply to or by it of any goods, services or personnel; and
 - (b) to pay any expenses it has incurred;
 - (c) to provide training, whether by itself or with the cooperation of such other persons or bodies as the Board thinks fit, for its members or for other persons concerned with climate change or disaster risk reduction matters; and
 - (d) to establish climate change or disaster risk management financing mechanisms for the benefit of its members or other persons; and
 - (e) to collect, examine, endorse, disseminate, or publish any information in paper, electronic or magnetic form such reports, papers, periodicals or other information as may be conducive to the carrying out of its functions relating to climate change or disaster risk reduction; and
 - (f) to encourage and support other persons or bodies in carrying out, research and studies into matters concerning climate change and

disaster risk reduction and to disseminate knowledge and advice on such matters; and

- (g) to examine and consider any existing or proposed policies or practices, or other matters, relating to climate change and disaster risk reduction, and to make recommendations thereon to any appropriate person, organization or authority; and
- (h) to do anything incidental to any of the powers specified under this section or otherwise conferred on the Board under this Act or any other Act.

11 Chairperson and Deputy Chairperson

- (1) The Director General is the Chairperson of the Board.
- (2) The Director General is to appoint from amongst the members of the Board under paragraph 8(1)(b), (c) or (d), a Deputy Chairperson of the Board.
- (3) The Deputy Chairperson holds office for 3 years and is eligible for reappointment.
- (4) The Deputy Chairperson may resign from his or her office in writing to the Chairperson of the Board.

12 Meetings of the Board

- (1) The Board is to meet at least once in a quarter of a year and may hold such other meetings as are necessary for the proper performance of its functions under this Act.
- (2) The Chairperson of the Board is to preside at all meetings of the Board and in his or her absence, the Deputy Chairperson is to preside at these meetings.
- (3) The quorum for a meeting of the Board is 8 members of the Board present at the meeting.
- (4) A member present at a meeting of the Board has one vote and questions arising at a meeting are to be decided by a majority of votes.

- (5) If the voting at the meeting is equal, the Chairperson or the Deputy Chairperson (if he or she chairing the meeting) has a casting vote.
- (6) To avoid doubt, the person invited under subsection 8(2) has no right to vote in any meeting of the Board.
- (7) Subject to this Act, the Board may determine and regulate its own procedures.

13 Authorization to attend meeting

A member of the Board may authorize a senior officer from his or her Ministry, Department, agency or organization to attend a meeting on his or her behalf.

14 Secretariat Support

- (1) The corporate service of the Ministry is the Secretariat of the Board.
- (2) The Secretariat has the following functions:
 - (a) to coordinate and have oversight of the development of policies and guidelines related to climate change and disaster risk reduction; and
 - (b) to coordinate and undertake registration of new and existing climate change and disaster risk reduction projects regardless of the funding source; and
 - (c) to coordinate the preparation of papers related to global and regional climate change and disaster risk reduction obligations; and
 - (d) to administer and maintain the Board Portal and Information Management Systems; and
 - (e) to coordinate the assessment of and make recommendations for the funding and implementation of new climate change and disaster risk reduction projects against agreed national priorities; and
 - (f) to coordinate advisory groups, facilitate capacity development initiatives and drive climate change and disaster risk reduction related mainstreaming efforts; and

- (g) to support the implementation of the whole-of-Government monitoring and evaluation and reporting relative to climate change and disaster risk reduction policies, projects or initiatives.

15 Sitting Allowance

The members of the Board including the Chairperson and Deputy Chairperson are entitled to a sitting allowance of VT2, 000 for each day in which the Board sits for meeting.

PART 4 FUNCTIONS AND POWERS OF THE DIRECTOR OF METEOROLOGY

16 Definition

In this Part, unless a contrary intention appears:

climate related services means any service or activity involving the dissemination or usage of information about climate change, climate variability, trends and impacts assessed on local, national, regional and global scales, and includes:

- (a) the management of meteorological and related data collected in Vanuatu or for use by the Government of Vanuatu; or
- (b) the derivation of products from the data that describes Vanuatu's climate; or
- (c) the development of techniques for applying the data in a wide range of social, economic and environmental contexts; or
- (d) the provision of information and advice to the general public and specialist users about the nature of climate in general and Vanuatu's climate in particular.

Department means the Department of Meteorology;

Director means the Director of the Department of Meteorology.

17 Functions of the Director

- (1) In addition to such functions as are conferred on the Director under this Act and any other Act, the Director has the following functions:
 - (a) to record meteorological observations required for the purpose of meteorology; and
 - (b) to establish and maintain a national network of meteorological observation stations and all other necessary technical installations and equipment; and

- (c) to forecast weather and monitor the state of the atmosphere; and
- (d) to advise the Government on matters relating to meteorology, and support the roles and responsibilities of the NDMO in relation to disaster management and risk reduction; and
- (e) to issue a warning and alert of flood, gale, storm, drought and any other weather condition likely to endanger life or property, and determine when a warning and alert is to be lifted; and
- (f) to collect, collate and make available meteorological data and information required under this Act including archiving of such data or information; and
- (g) to develop an observations data strategy and an integrated national rainfall network including implementation of such strategy and network; and
- (h) to publish meteorological reports, bulletins or data; and
- (i) to promote the effective use of meteorological information and arrange for programs of public awareness and education; and
- (j) to promote the advancement of meteorology by means of meteorological research, investigation or by other means; and
- (k) to provide general advice on matters relating to meteorology and provide meteorological data and advice in support of specific national development project or any other important weather sensitive economic activity; and
- (l) to develop and implement a plan and program for the installation and use of an on-board Automatic Weather Station for ships providing inter island services, and any other system or facility relevant to meteorology to promote safe maritime operations; and
- (m) to establish and implement standards for all observations used for aviation, maritime and other general forecasts (and where such observations are used for legal purposes); and
- (n) to co-operate with the authorities administering the:

- (i) meteorological services of other countries; and
- (ii) World Meteorological Organisation; and
- (iii) International Civil Aviation Organisation; and
- (iv) any other relevant international organisation,

in relation to any of the functions and powers stated under this Part, and in particular, supporting the principle of free and unrestricted exchange of meteorological data between national meteorological services; and

- (o) to develop, facilitate and provide training and instruction for persons whose duties and responsibilities concern matters relevant to meteorology; and
- (p) to promote the understanding and recognition of traditional practices and knowledge related to weather and climate through the observation of weather indicators occurring in nature and by other means; and
- (q) to develop an effective communications strategy to ensure that warnings and alerts, and general meteorological information is disseminated; and
- (r) to engage in any other act that is necessary to provide effective meteorological services to minimise the risks arising from adverse weather conditions; and
- (s) to promote capacities within Vanuatu to undertake weather forecasting based on dynamic modelling outputs and to maintain a database of critical high impact weather and climate events; and
- (t) to ensure that climate related services are provided in accordance with recognised standards and applicable guidelines; and
- (u) to develop programs to support early warning systems in relation to adverse weather events.

- (2) The Director must perform or carry out his or her functions under this Part in the public interest, and in particular:
- (a) to promote safe navigation, shipping and civil aviation services;
and
 - (b) to support trade, tourism, commerce and industry services.
- (3) To avoid doubt, the functions referred to under paragraph (1)(e) are to be carried out exclusively by the Director.

18 Powers of the Director

In addition to such powers as are conferred on the Director under this Act and any other Act, the Director has the following powers:

- (a) to require that an aviation or maritime operator located or operating within Vanuatu's maritime boundaries act in accordance with any warning or alert issued by the Department; and
- (b) to restrict the rights of any person or agency to undertake meteorological service for public use; and
- (c) to determine and apply standards, codes of ethics or operating procedures in relation to any research or other activity relating to meteorology; and
- (d) to require that any data or information relating to meteorology that is obtained by any person by research activities or otherwise, be provided to the Department; and
- (e) to restrict the publication or dissemination of any meteorological report or bulletin if the Director is of the opinion that such information or document is false, misleading or not in accordance with the accepted science to which it relates; and
- (f) to assert the rights of the Department as the owner of all intellectual property rights in relation to all information and data generated by or on behalf of the Department, and in relation to all publications made by or on the authority of the Department;

- (g) subject to the Government Contracts and Tenders Act [CAP 245], to enter into a contract or arrangement with any authority or person within Vanuatu or outside of Vanuatu to compile and record meteorological reports and information.

PART 5 FUNCTIONS AND POWERS OF THE DIRECTOR OF GEOLOGICAL HAZARDS

19 Definition

In this Part, unless a contrary intention appears:

Department means the Department of Geological Hazards;

Director means the Director of the Department of Geological Hazards.

20 Functions of the Director

- (1) In addition to such functions as are conferred on the Director under this Act and any other Act, the Director has the following functions:
 - (a) to support the roles and responsibilities of the NDMO in relation to disaster risk management; and
 - (b) to support the NDMO in the development and implementation of protocols for emergencies and crisis response relating to geological hazards; and
 - (c) to record data relating to geological hazards, including risk assessments and hazard mapping, geodetic and geo-chemistry surveys; and
 - (d) to establish and maintain a national network of geological hazards monitoring stations and data centres; and
 - (e) to forecast, map and monitor threats arising from geological hazards, including all necessary observations, sampling and risk assessments; and
 - (f) to advise the Government and any other person on all matters relating to geological hazards; and
 - (g) to issue a warning and alert of imminent or constant risks from geological hazards, and determine when a warning and alert is to be lifted; and

- (h) to collect, collate, archive and make available geological hazards data and information required under this Act including archiving of such data or information; and
- (i) to develop an observations data strategy and establish and maintain a national data centre; and
- (j) to promote the advancement of relevant science, research and related practices and activities relating to geological hazards; and
- (k) to develop programs to support early warning systems in relation to geological hazard; and
- (l) to establish and implement standards for all observations and reporting in relation to geological hazards; and
- (m) to co-operate with authorities responsible for geological hazards in other countries, and with relevant regional and international organisations, and in particular, support the principle of free and unrestricted exchange of relevant data and information concerning geological hazards between such agencies; and
- (n) to promote and enter into regional arrangements for the establishment, operation and participation in seismic, volcanological and other networks aimed at increasing the capacity within the region to assess and respond to the risks from geological hazards in the region; and
- (o) to support regional efforts for disseminating general warnings to the public, and specific warnings and information to aircraft and ships in accordance with such arrangements; and
- (p) to develop, facilitate and provide trainings and instructions for persons whose duties and responsibilities concern matters relevant to geological hazards; and
- (q) to develop and implement an effective communications strategy to ensure that warnings and alerts are disseminated; and

- (r) to perform any other act which contributes to the capacities within Vanuatu to effectively mitigate the risks arising from geological hazards; and
 - (s) to support the development of appropriate educational curriculum to cover topics associated with geological hazards.
- (2) To avoid doubt, the functions referred to under paragraph (1)(g) are to be performed or carried out exclusively by the Director.
- (3) The Director must undertake an assessment of the threat caused or likely to be caused by a geological hazard and determine whether an officer of the Department can be located in the vicinity of such geological hazard to carry out a function authorized under this Act.
- (4) If the Director is of the opinion after carrying out an assessment under subsection (3) that the threat caused or likely to be caused by a geological hazard is a risk to the safety of an officer, the Director must not assign the officer to carry out such function.

21 Powers of the Director

In addition to such powers as are conferred on the Director under this Act and any other Act, the Director has the following powers:

- (a) to restrict the rights of any person or agency to undertake research and other activities relating to geological hazards, or to make use of any facility, equipment or installation used in relation to geological hazards; and
- (b) to determine a code of ethics or an operating procedure in relation to any research or other activity relating to geological hazards; and
- (c) to require that any data or information relating to geological hazards that is obtained by any person by research activity or otherwise, be provided to the Department; and
- (d) to restrict the publication or dissemination of any report or bulletin relating to geological hazards if the Director is of the opinion that the information or document is false, misleading or not in accordance with the accepted science to which it relates; and

- (e) to assert the rights of the Department as the owner of all intellectual property rights in relation to all information and data generated by or on behalf of the Department, and in relation to all publications made by or on the authority of the Department; and
- (f) subject to the Government Contracts and Tenders Act [CAP 245], to enter into a contract or arrangement with any authority or person within or outside Vanuatu to compile and record relevant reports and information.

PART 6 FUNCTIONS AND POWERS OF THE DIRECTOR OF CLIMATE CHANGE

22 Definitions

In this Part, unless a contrary intention appears:

climate change mitigation means activities relating to the reduction of greenhouse gas emissions;

climate change science means the scientific study or opinion relating to the change in climate;

Department means the Department of Climate Change;

Director means the Director of the Department of Climate Change.

23 Functions of the Director

In addition to such functions as are conferred on the Director under this Act and any other Act, the Director has the following functions:

- (a) to support the roles and responsibilities of any committee or body established under this Act or any other Act relating to climate change or climate change science; and
- (b) to support the roles and responsibilities of the NDMO in relation to disaster risk reduction; and
- (c) to increase awareness internationally about the causes and implications of climate change in Vanuatu; and
- (d) to increase awareness within Vanuatu about the causes and implications of climate change and climate variability in Vanuatu; and
- (e) to support the development of appropriate educational curriculum to cover topics associated with climate change; and
- (f) to support the collection, analysis and interpretation of data relevant to climate change and its impacts in Vanuatu by any body established under this Act or any other person; and

- (g) to support the ongoing assessment of the effects of climate change within Vanuatu; and
- (h) to support climate change programs and projects aimed at protecting the well-being and livelihood of the citizens of Vanuatu; and
- (i) to support Vanuatu's effective participation in regional and international schemes relating to the Clean Development Mechanism and Reducing Emissions from Deforestation and Forest Degradation and other related arrangements; and
- (j) to support any activity relating to climate change science including data collection and data quality; and
- (k) to collect, collate, archive and make available climate change data and information required under this Act including archiving of such data or information; and
- (l) to promote the understanding and recognition of traditional practices and knowledge relating to weather and climate through the observation of weather indicators occurring in nature and by other means; and
- (m) to co-operate with authorities responsible for climate change in other countries, and with relevant regional and international organisations, and in particular, support the principle of free and unrestricted exchange of relevant data and information concerning climate change between such agencies; and
- (n) to support climate change adaptation and mitigation researches carried out by the Department or any other agency; and
- (o) to promote the use of the findings of climate change adaptation and mitigation researches and disseminate such findings where necessary; and
- (p) to collect, collate, review and make available reports and any information on climate change adaptation or climate change mitigation; and
- (r) to establish and maintain a database on climate change adaptation and risk reduction strategy including its location, effectiveness and lessons learned; and

- (s) to establish and maintain, where necessary, and in close collaboration with the Department of Energy, a database on climate change mitigation data and strategies including its location, effectiveness and lessons learned; and
- (t) to support and facilitate the implementation of international climate change adaptation and climate change mitigation obligations; and
- (g) to support and facilitate the implementation of climate change adaptation and climate change mitigation programs and projects with the stakeholders of the Board; and
- (u) to provide regular reports to the Board on national climate change adaptation and climate change mitigation activities carried out by the Department; and
- (v) to support the monitoring and evaluation of climate change adaptation and climate change mitigation strategies, projects and programmes carried out by any agency; and
- (w) to support the monitoring and evaluation of climate change mitigation strategies, projects and programmes carried out by any agency, in collaboration with the Department of Energy and Department of Forestry.

24 Powers of the Director

In addition to such powers as are conferred on the Director under this Act and any other Act, the Director has the following powers:

- (a) to restrict the rights of any person or agency to undertake climate change research and other related activities; and
- (b) to determine codes of ethics or operating procedures in relation to any research or any other activity relating to climate change; and
- (c) to require that any data or information relating to climate change, climate change adaptation or climate change science obtained by any person by a research activity to be provided to the Department; and
- (d) to restrict the publication or dissemination of any report or bulletin relating to climate change impacts and issues if the Director is of the opinion that the information or document is false, misleading or not in accordance with the accepted science to which it relates; and

- (e) to assert the rights of the Department as the owner of all intellectual property rights in relation to all information and data generated by or on behalf of the Department, and in relation to all publications made by or on the authority of the Department relating to climate change; and
- (f) subject to the Government Contracts and Tenders Act [CAP 245], to enter into a contract or arrangement with any authority or person within or outside Vanuatu to compile and record relevant reports and information.

PART 7 IMPLEMENTING CERTAIN INTERNATIONAL CONVENTIONS

25 Definitions

In this Part:

Convention means the United Nations Framework Convention on Climate Change and any other regional or international convention relating to climate change, meteorology or geological hazards to which Vanuatu is a party and which has been ratified by the Parliament of Vanuatu.

26 Application of Conventions

- (1) This Part applies to a Convention defined under section 25.
- (2) This Part does not affect or restrict the lawful responsibility of any other Ministry, Department or agency of the Government in relation to a Convention applicable under this this Part.

27 Functions of the Director

A Director has the following functions specifically related to his or her Department:

- (a) to appoint technical experts within Vanuatu or internationally to represent the interests of Vanuatu in relation to negotiations relating to a Convention and ensure that the rights of Vanuatu are exercised in accordance with the Convention; and
- (b) to assist any other Government Department or agency of the Government or any body or committee established under this Act or any other Act to implement any obligation or aspect of a Convention; and
- (c) to report on a regular basis to the Council of Ministers, the Minister and the Director General on any matter relating to the implementation of a Convention; and
- (d) to share information and otherwise provide cooperation as required by a Convention; and

- (e) to participate in international conventions, forums, programs and projects with a view to obtaining the full possible assistance to address the implications of climate change and to promote and implement adaptation and mitigation initiatives; and
- (f) to act as the designated national authority or focal point for the purposes of a Convention; and
- (g) to carry out any other act as may be required to implement any obligation under a Convention.

PART 8 PROTECTION OF ASSETS

28 Powers of the Director to protect assets and operations

- (1) A Director may issue a notice to a person if he or she is carrying or about to carry out an act or activity which causes or likely to cause an immediate threat or risk to an installation, facility or equipment of the Department used for the purposes of this Act.
- (2) A notice issued under subsection (1):
 - (a) may be given in writing or orally; and
 - (b) must specify the nature of an act or activity and of its effects or potential effects on the operations of the Department; and
 - (c) may require that the act or activity cease, or not to be carried out, until such time the Director is satisfied that the threat or risk no longer exists.
- (3) To avoid doubt, a notice may be issued under this section despite any approval or authorization which may have been granted in relation to such act or activity.
- (4) The Director or any officer of the Department is not responsible for any loss or damage arising from, or in any way connected with, the issuing of a notice under this section.

29 Removal of structures or objects

- (1) A Director may by notice, require a person or body corporate to remove a structure or object.
- (2) The notice must specify the period in which the structure or object must be removed.
- (3) The notice may only be issued in relation to a structure or object if such structure or object causes an obstruction to, or otherwise affects the operation of any installation, facility or equipment used by the Department for the purposes of this Act.

- (4) If the person who has been issued with a notice under subsection (1) fails to comply with the terms of the notice, the Department may remove the structure or object and deal with it in a manner approved by the Director.
- (5) The cost of the removal of a structure or object by the Department under subsection (4) is to be borne by the person or body corporate responsible for such structure or object.

30 Department may display signs to give directions

- (1) The Department may display signs at its premises, land, installations, facilities and on any of its equipment, which may give directions to be observed by any person.
- (2) An authorised officer may give directions to any person within the premises, land, installations, facilities or equipment of the Department for the purpose of ensuring compliance with any rule or operating procedure, or any sign made or displayed in accordance with this section.

PART 9 OFFENCES

31 Enforcement provisions

- (1) For the purpose of implementing, enforcing and ensuring compliance with the provisions of this Act and its Regulations, the Director or an authorized officer may do all or any of the following:
- (a) enter any land or private premises;
 - (b) conduct investigations and examinations as are necessary to determine whether any offence has been committed under this Act;
 - (c) install, operate and maintain observation stations, facilities, installations and related equipment and instruments on any Government land, and on any lease with the consent of the owner of the lease;
 - (d) erect public notice boards and information or warning signs on any Government land, and on any lease with the consent of the owner of the lease;
 - (e) take samples for the purpose of analysis and testing;
 - (f) take photographs or measurements or make sketches or recordings in any form;
 - (g) require any person who is suspected to have committed an offence under this Act to state his or her full name, occupation and usual place of residence including any other necessary information;
 - (h) require the production of any document, data or information obtained from research into any matter to which this Act or Regulation relates, or which is relevant to an act or activity under investigation, including any licence or permit required by law where applicable;
 - (i) require from any person any assistance that is relevant to an investigation or activity undertaken in accordance with this Act;

- (k) require the removal or seizure of any structure or object which interferes with or obstructs any station, facility, installation or equipment installed for the purpose of this Act; and
 - (l) seize any item which has been used in the commission of an offence under this Act.
- (2) If an emergency or a situation arises in which life or property is subject to imminent danger, the powers stated in paragraphs (1)(c) and (d) may be exercised without first obtaining the consent of the land owner.

32 Offences

- (1) A person who issues or disseminates a warning or alert relating to a geological hazard which has not been authorized by the Director, commits an offence punishable on conviction:
- (a) in the case of an individual- to a fine not exceeding VT1,000,000 or imprisonment for a term not exceeding 1 year, or both; or
 - (b) in the case of a body corporate- to a fine not exceeding VT 5,000,000.
- (2) A person who issues or disseminates a warning or alert of gale, storm or any other weather condition likely to endanger life or property, including any weather condition likely to give rise to flood or storm surges, which:
- (a) has not been issued by the Department or the Director; or
 - (b) is issued without the authorization of the Director,
- commits an offence punishable on conviction:
- (i) in the case of an individual- to a fine not exceeding VT 1,000,000 or imprisonment for a term not exceeding 1 year, or both
 - (ii) in the case of a body corporate- to a fine not exceeding VT 5,000,000.
- (3) A person who:

- (a) hinders or obstructs an authorized officer from exercising a function or power under this Act; or
 - (b) induces or incites any other person to hinder or obstruct an authorized officer from exercising a function or power under this Act; or
 - (c) by words or conduct, falsely represents that he or she is entitled to exercise a function or power under this Act, or who otherwise impersonates an authorised officer; or
 - (d) provides false or misleading information:
 - (i) to an authorised officer; or
 - (ii) whenever requested to provide information under this Act,commits an offence.
- (4) A person who commit an offence under subsection (3) is punishable on conviction:
- (a) in the case of an individual – to a fine not exceeding VT1,000,000 or imprisonment for a term not exceeding 6 months, or both; or
 - (b) in the case of a body corporate - to a fine not exceeding VT5,000,000.
- (5) If a body corporate commits an offence under this Act, any officer, director or agent of such corporate body who authorised, assented to or participated in, or by his or her neglect or omission contributed to the commission of the offence, commits an offence and is liable on conviction to a fine not exceeding VT1,000,000 or imprisonment for a term of not more than 6 months.
- (6) A person who:
- (a) interferes with the operation of any installation, facility or equipment installed or operated by the Department under this Act; or

- (b) carries out any act which adversely impacts upon the ability of the Department to perform its functions under this Act; or
- (c) breaches any rule or operating procedure made under this Act; or
- (d) fails to comply with any requirement or direction given under this Act; or
- (e) fails to comply with a requirement stated in any sign erected under this Act,

commits an offence punishable on conviction:

- (i) if the person is an individual – to a fine not exceeding VT1,000,000 or imprisonment for a term not exceeding 6 months, or both; or
- (ii) if the person is a body corporate – to a fine not exceeding VT5,000,000.

(7) A person who:

- (a) has been served with a notice under section 28 or 29 and fails to comply with any of its terms; or
- (b) having been served with a notice under section 28 or 29, causes or permits any other person to act in breach of its terms; or
- (c) knowingly acts in breach of the terms of a notice issued to him or her under section 28 or 29,

commits an offence under this Act.

(8) A person who commit an offence under paragraph (7)(a), (b) or (c) is punishable on conviction:

- (a) in the case of an individual- to a fine not exceeding VT1,000,000 or imprisonment for a term not exceeding 6 months or, both; or
- (b) if the person is a body corporate - to a fine not exceeding VT5,000,000.

33 Penalty notice

- (1) The Director or an authorised officer, may serve a penalty notice on a person if it appears to him or her that the person has committed an offence under any provision of this Act or the regulations.
- (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 must pay within a time and to a person specified in the notice the amount of penalty prescribed for the offence if dealt with under this section.
- (3) Payments made under this section are to be made to the Government General Revenue at the Ministry of Finance and Economic Management.
- (4) A penalty notice may be served personally or by post.
- (5) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, the person is not liable to any further proceedings for the alleged offence.
- (6) 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.
- (7) Regulations made under this Act may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (8) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence by a Court.

- (9) 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.

PART 10 – MISCELLANEOUS PROVISIONS

34 Protection of liability

- (1) A civil or criminal liability action is not to be taken against a Director or an authorized officer in respect of anything done or omitted to be done by the officer in good faith in the execution or purported execution of his or her powers and duties under this Act.
- (2) The Director, authorised officer or the Department is not responsible for any harm caused or damages incurred as a result of a person or corporate body failing or refusing to comply with any warning or alert issued by the Director or the Department relating to meteorology, geological hazards or climate change under this Act.

35 Regulations

- (1) The Minister may, on the advice of the Director, make Regulations not inconsistent with this Act for the better carrying out or giving effect to the provisions of this Act.
- (2) Without limiting the generality of subsection (1), the Minister may make Regulations for all or any of the following:
 - (a) prescribe any form required to be used for the purpose of this Act;
 - (b) prescribe fees for any services provided by the Department as required by this Act;
 - (c) clarify the application of the precautionary principle to any role, function or activity to which the provisions of this Act apply;
 - (d) facilitate the implementation of any Convention to which Part 7 applies;
 - (e) provide for the safety of any installation, facility and equipment used by the Department in accordance with this Act, or any data collected for any purpose under this Act;
 - (f) provide for the safety of any person performing functions under this Act.

- (g) provide for the implementation of projects and programs relating to climate change, geological hazards and meteorology including requirements applying to such projects and programs and controls over them;
 - (h) on the advice of the Director and the Board, prescribe systems involving the Clean Development Mechanisms and Reducing Emissions from Deforestation and Forest Degradation including participation by Vanuatu in such systems administered on a national, regional or international basis;
 - (i) provide for any matter which facilitates the sourcing and utilisation of project funding and support for climate change, climate change adaptation, mitigation, geological hazards and meteorology and other relevant programs and projects.
- (3) Regulations made under this Act may specify rules and operating procedures relevant to the management and operation of any installation, facility or equipment of the Department.
- (4) In addition to subsection (3), the rules and operating procedures may prescribe:
- (a) controls over access to certain areas, premises or land in which the installation, facility or equipment is located; or
 - (b) measures to protect an installation, facility or equipment of the Department; or
 - (c) requirements applying to the operation and management of any installation, facility or equipment installed or used for a purpose under this Act.
- (5) A Regulation made under this section may prescribe offences and impose amount of penalties that must not exceed VT1, 000,000.

36 Repeal

The Meteorology Act [CAP 204] is repealed.

37 Transitional arrangement

- (1) A reference in any Act or any document or Act to the Meteorology Act [CAP 204] made before the commencement of this Act is taken to be a reference to this Act, on and after the commencement of this Act.

- (2) An authorisation, registration, appointment, approval, cancellation, suspension, condition, declaration, petition, permit, prohibition, exemption, order, advice or direction made under the Meteorology Act [CAP 204] before the commencement of this Act is to continue to have effect under this Act, on and after the commencement of this Act, until such time it is altered, amended, or cancelled by this Act.

38 Commencement

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