

# REPUBLIC OF VANUATU

## **BILL FOR THE PUBLIC SOLICITOR (AMENDMENT) ACT NO. OF 2016**

### **Explanatory Note**

This Bill amends the Public Solicitor Act [CAP 177].

The State Law Office Act [CAP 242] and the Public Prosecutors Act [CAP 293] have specific provisions which grant the Attorney General and other lawyers in the State Law Office and the Public Prosecutor and other lawyers in the Public Prosecutor's Office the right to appear in Court and give legal advice even if those lawyers are not yet admitted as legal practitioners in Vanuatu. The Public Solicitor's Act does not have equivalent section. This gap in the law potentially limits the capacity of the Public Solicitor's Office to provide services to the general public.

The Public Solicitor's Office is heavily reliant on graduate lawyers who do not have the 2 years' experience as required by the policy of the current Law Council to appear in any Court of Law in Vanuatu and to be able to practice as a barrister and solicitor in that court. Even those that have worked for 2 years, there has often been delays in having the application for admission processed.

The Public Solicitor's Office currently has 4 of its 10 legal officers not yet admitted as legal practitioners. This reliance on new graduate lawyers is expected to continue on the long term.

The effect of this amendment would mean that all legal officers within the Public Solicitor's Office will be able to practice as a barrister and solicitor in any Court within Vanuatu and be entitled to all the rights and privileges of a barrister and solicitor in that Court.

Item 1 of the Bill amends section 1 of the Act by inserting a new definition of "Legal officer" to mean a lawyer that is appointed to the office of the Public Solicitor and also includes the Public Solicitor.

Item 2 amends section 7 by inserting a new section 7A after that section to provide for the rights of legal officers and others to practice law.

Subsection 7A(1) provides for the Public Solicitor and any of his or her legal officers to be entitled to practice law as a barrister and a solicitor in any Court in Vanuatu and to have all the rights and privileges of a barrister and solicitor in a Court, when carrying out

work of a legal professional nature in that capacity for the Office.

Subsection 7A(2) provides that if the Public Solicitor or any of the legal officers does or omits to do any act in the course of carrying out work of a legal professional nature in that capacity for the Office, he or she is subject to the duties and obligations to which he or she would be subject if that act had been done or omitted to be done in the course of practice by him or her as a barrister and solicitor.

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



**REPUBLIC OF VANUATU**

**BILL FOR THE  
PUBLIC SOLICITOR (AMENDMENT)  
ACT NO. OF 2016**

**Arrangement of Sections**

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

# REPUBLIC OF VANUATU

## **BILL FOR THE PUBLIC SOLICITOR (AMENDMENT) ACT NO. OF 2016**

An Act to amend the Public Solicitor Act [CAP 177].

Be it enacted by the President and Parliament as follows-

### **1 Amendment**

The Public Solicitor Act [CAP 177] 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 PUBLIC SOLICITOR ACT [CAP 177]

#### **1 Section 1**

Insert in its correct alphabetical position:

““Legal officer” means a lawyer appointed to the Public Solicitor’s office under this Act and includes the Public Solicitor;”

#### **2 After section 7**

Insert

##### **“7A Rights of legal officers and others to practice law**

(1) The Public Solicitor or any other legal officers when carrying out work of a legal professional nature in that capacity for the Office:

- (a) is entitled to practice as a barrister and solicitor in any Court in Vanuatu; and
- (b) is entitled to all the rights and privileges of a barrister and solicitor in that Court,

whether or not he or she is so entitled apart from this subsection.

(2) If:

- (a) the Public Solicitor or any other legal officer does or omits to do any act; and
- (b) he or she does or omits to do that act in the course of carrying out work of a legal professional nature in that capacity for the Office,

he or she is subject to the duties and obligations to which he or she would be subject if that act had been done or omitted to be done in the course of practice by him or her as a barrister and solicitor.”