REPUBLIC OF VANUATU

BILL FOR

CENTRAL BANK OF VANUATU ACT NO 3 OF 1980

AUTHENTICATION BY CLERK

This Copy has been compared by me with the Bill which has been passed by Parliament and found by me to be a true copy of the Bill.

Signed : ...John Simpson.....

CLERK TO PARLIAMENT

4th November 1980

I hereby Assent

Signed : .....

PRESIDENT

4th November 1980

BILL FOR

THE CENTRAL BANK OF VANUATU

ACT NO 3 OF 1980

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REPUBLIC OF VANUATU

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THE CENTRAL BANK OF VANUATU

ACT NO 3 OF 1980

To provide for the establishment of the Central Bank of Vanuatu and its operations, for the currency of Vanuatu, the external reserve of Vanuatu, foreign exchange dealings and other matters connected therewith.

Be it enacted by the President and Parliament as follows :-

PART 1 - INTERPRETATION

Interpretation

In this Act, unless the context otherwise requires -

"Central Bank" means the Central Bank of Vanuatu established under section 2 (1);

"bank" means a financial institution the business of which includes the acceptance of deposits of money withdrawable by cheque

"banking business" means the business of accepting deposits of money which may be withdrawn or repaid on demand or after a fixed period or after notice and the employment of those deposits in whole or in part by lending or any other means for the account and at the risk of the person accepting such deposits and shall include merchant banking business;

"Board" means the Board of Directors of the Central Bank;

"General Manager" means the General Manager of the Central Bank;

"President" means the President of the Board;

"Vatu".....means currency issued under the provisions of this Act;

"financial institution" means a company which carries on banking business;

"Minister" means the Minister for the time being responsible for finance or any Minister acting on his behalf;

"Merchant banking business" means any business which includes the arranging, negotiation, flotation, discounting or underwriting of loans for profit whether as principal or agent;

"New Hebrides francs" means currency issued in Vanuatu by the Institut d'Emission d'Outre-mer;

"notes" and "coin" mean, respectively, currency notes and coin issued under the provisions of this Act;

"Vanuatu Development Bank" means the Bank of Development of Vanuatu established by Joint Regulation No 12 of 1979.

PART 2 - ESTABLISHMENT OF CENTRAL BANK

Establishment and incorporation of Central Bank

2.(1) There is hereby established a bank to be known as the Central Bank of Vanuatu which shall be a body corporate under that name with perpetual succession and a common seal and which may, in such name, sue or be sued and may, subject to the provisions of this Act, enter into contracts, and acquire, hold, deal with and dispose of real and personal property of every description.

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(2) All deeds, documents and other instruments required to be sealed with the common seal of the Central Bank shall be sealed therewith in the presence of the President and of the General Manager or other persons authorised by the Central Bank to act on their behalf, who shall sign every such deed, document or other instrument to which such seal is affixed, and such signing shall be sufficient evidence that such seal was duly and properly affixed and that the same is the lawful seal of the Central Bank.

(3) Service of any document upon the Central Bank shall be effected by delivering the same or by sending it by registered post to the General Manager.

Principal Objects of the Central Bank

3. The principal objects of the Central Bank shall be -

(a) to regulate the issue, supply, availability and international exchange of money;

(b) to advise the Government on banking and monetary matters;

(c) to promote monetary stability;

(d) to promote a sound financial structure; and

(e) to foster financial conditions conducive to the orderly and balanced economic development of Vanuatu.

Places of business, agents, etc.

4. (1) The Central Bank shall have its principal place of business in Port Vila and may establish such branch offices elsewhere as it sees fit.

(2) The Central Bank may appoint such agents and correspondents as it may require from time to time.

PART 3 - CAPITAL, PROFIT AND RESERVES

Capital

5. (1) The authorised capital of the Central Bank shall be New Hebrides francs two hundred million and may be increased from time to time by such amounts as may be proposed by the Board and approved by the Minister. The Central Bank shall on its establishment issue to the Government capital stock equivalent to New Hebrides francs fifty million which shall be a charge on and paid from the Revenue Fund. The Central Bank may issue from time to time to the Government such further amounts of capital stock which shall be fully paid as may be proposed by the Board and approved by the Minister.

(2) All capital stock of the Central Bank as and when issued shall be for the sole account of the Government and shall not be transferable or subject to any encumbrance. No reduction of capital shall be effected except by an amendment to this Act.

(3) In calculating the amount to be paid by the Government by way of subscription to the capital of the Central Bank, account shall be taken of any amounts already paid to the Central Bank by the Government by way of preliminary expenses and the value of any assets vested in the Central Bank by the Government.

(4) The Minister, notwithstanding any other provision of this Act, shall cause to be transferred to the ownership of the Central Bank non-negotiable non-interest bearing securities issued by the Government from time to time for such an amount as is necessary for the purpose of preserving the paid-up capital from any impairment whenever, in the opinion of the Board, the assets of the Central Bank are less than the sum of its liabilities and paid-up capital.

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Net Profit

6. The net profit of the Central Bank for any financial year shall be determined by the Central Bank after meeting all current expenditure for that year and after making provision for -

(a) bad and doubtful debts, depreciation in investments and other assets, and contributions to staff and pension funds; and
(b) such other purposes as the Board may consider necessary.

General Reserve

7.(1) The Central Bank shall establish a General Reserve to which it shall allocate at the end of each financial year of the Central Bank its net profit until such time as the balance of the General Reserve is equal to half the authorised capital of the Central Bank after which it shall allocate half the net profit until the General Reserve is equal to twice the authorised capital of the Central Bank.

(2) After allocations have been made to the General Reserve under sub-section (1) the remainder of the net profit for each financial year shall be applied to the redemption on behalf of the Government of any securities held by the Central Bank which have been issued in accordance with Section 5 (4).

(3) The balance of the net profit for the financial year remaining after all deductions under sub-sections (1) and (2) have been made shall be paid to the Vanuatu Development Bank as soon as practicable after the end of each financial yaar.

(4) No deduction under sub-sections (1) or (2) shall be required to be made nor shall any payment under sub-section (3) be made if, in the judgment of the Board, the assets of the Central Bank are, or after the deduction or payment, would be, less than the sum of its liabilities and paid-up capital.

(5) With the approval of the Minister, the Board may direct that a part,not exceeding half, of the General Reserve may at any time after the General Reserve has reached an amount equal to half the authorised capital of the Central Bank be converted into issued fully-paid capital:

Provided that the amounts so cnnverted shall not at any time exceed the difference between the issued and paid-up capital and the authorised capital of the Central Bank.

PART 4 - BOARD, MANAGEMENT AND EMPLOYEES

Board of Directors

8.(1) There shall be a Board of Directors of the Central Bank who shall be responsible for the policy and affairs of the Central Bank.

(2) The Board shall have power -

(a) to make rules for the conduct of the business of the Central Bank;
(b) to make orders with the prior approval of the Minister generally for giving effect to the purposes of this Act;
(c) to issue directives for the purpose of giving effect to the provisions of this Act.

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(3) The Board shall comprise six directors, namely -

(a) a President;
(b) a General Manager;
(c) a representative of the Minister;
(d) Three other members.

(4) The members of the Board shall be appointed by the Minister. The General Manager shall be a person of recognised experience in financial matters. The President and other directors shall be appointed from among persons of recognised standing and experience in business, professional or academic matters.

(5) The President shall preside at meetings of the Board. He shall ensure that the Board's decisions are implemented and that the laws relating to the Central Bank are observed.

(6) The General Manager, who shall preside at meetings of the Board in the absence of the President, shall serve as Chief Executive Officer of the Central Bank responsible to the Board for the execution of its policy and the management of the Central Bank.

(7) Except as may otherwise be provided in this Act, the rules of the Central Bank or resolutions of the Board, the General Manager, shall have the power to act, contract and sign instruments and documents on behalf of the Central Bank and, pursuant to the resolutions of the Board, delegate such power to other officers of the Central Bank.

(8) The term of office of each director, including the President and the General Manager, shall be specified in his letter of appointment and shall be for not less than two years nor more than five years. They shall be appointed on such other terms and conditions, which may not be altered to their disadvantage during their tenure of office, as may be set out in their letters of appointment, and shall be eligible for re-appointment.

(9) Any director, other than the representative of the Minister, may resign his office on giving notice in writing to the Minister.

(10) A member of the Board other than the representative of the Minister shall cease to hold office if the Minister on the recommendation of the Board finds that he is incapable of carrying out, or is guilty of serious misconduct in the performance of the duties of his office and publishes a notice in the Vanuatu Gazette declaring the office of that member vacant.

(11) The General Manager shall not while holding office hold any other office, whether remunerated or not, without the written permission of the Minister, except that he may -

(a) act as a nominee of the Central Bank;
(b) be a member of any board, committee or commission established by the Government or by or under an Act of Parliament;
(c) be a governor, director or member of the board of any regional or international institution of which Vanuatu or the Central Bank is a member.

(12) Subject to subsection (11) a person may not be appointed a director and an appointed director shall cease to hold office when he :-

(a) is a member of Parliament;
(b) is a director, officer or employee of a company, other than the Central Bank, engaged wholly or mainly in banking business.

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(13) The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the Vanuatu Gazette.

Procedure of the Board

(1) Subject to the provisions of this Act, the Board may regulate its own procedure and, in particular, may regulate the holding of meetings, the notice to be given of meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of minutes, and the opening, keeping, closing and audit of accounts.

(2) Three members of the Board, of whom one shall be the President or General Manager shall form a quorum at any meeting and decisions shall be adopted by a simple majority of the votes of the members present except that in the event of an equality of votes the person presiding shall have and exercise a second or casting vote.

(3) All acts done by a person acting in good faith as a member of the Board shall be asvalid as if he were a member of the Board, notwithstanding that some defect in his appointment or qualification be afterwards discovered.

Power to appoint officers and employees

10. The Board may appoint and employ, at such remuneration and on such terms and conditions as it may prescribe, such officers and employees as the Board may consider necessary for the due performance of the objects of the Central Bank.

Meetings of the Board

11. The Board shall meet as often as the President may consider the business of the Central Bank may require but not less than six times a year.

Conflicts of interest

12. (1) No member of the Board shall act as a delegate of any commercial, financial, agricultural, industrial or other interest or receive or accept directions therefrom in respect of duties to be performed under this Act.

(2) All members of the Board shall fully disclose to the Board any commercial, financial, agricultural, industrial or other interest that they may have in any matter which becomes the subject of Board action.

(3) No member of the Board, nor any officer or employee of the Bank shall accept any gift or advantage for himself, or on his behalf for persons with whom he may have family, business or financial connections which would result, or give the appearance of resulting, in a diminution of his impartiality in any matter relating to his duties under this Act.

(4) Any person who contravenes the provisions of this Section shall be guilty of an offence and liable to a fine of FNH 140,000 or to imprisonment for seven years, or to both such fine and imprisonment.

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Secrecy

13.(1) No member of the Board, nor any officer or employee of the Central Bank shall disclose to any person any information relating to the affairs of the Central Bank or of any bank or financial institution or other person which he has acquired in the performance of his duties under this Act except for the purpose of the performance of his duties or when lawfully required to do so by a court.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine of FNH 140,000 or to imprisonment for seven years, or to both such fine and imprisonment.

PART 5 - CURRENCY

Unit of currency

14. The currency unit of Vanuatu shall be the vatu

15. Value of currency

The value of the vatu in terms of other currencies shall be determined by the Central Bank acting in accordance with, written instructions given from time to time by the Minister after consultation with the Central Bank. Such instructions shall ensure that due regard be had to the obligations that Vanuatu has assumed under any international monetary agreement to which it is a party or to which it has adhered.

Obligations of Bank in respect of convertibility of currency

16. The Central Bank shall at its principal office -

(a) buy and sell on demand convertible foreign currency for immediate delivery outside Vanuatu against The foreign currency, or currencies, in which the Central Bank is obliged to deal under this section shall be specified by the Minister by order after consultation with the Central Bank; and

(b) at its discretion, buy and sell against other currencies eligible for inclusion in the reserve of external assets specified in section 23.

Provided that -

(i) the rate of exchange quoted by the Central Bank for spot transactions shall not differ from any value determined by the Central Bank in accordance with the provisions of section 15 by more than such margins as are permitted by any international monetary agreements binding on Vanuatu as may from time to time be prescribed;

(ii) the Central Bank shall not be required to buy or sell foreign currencies in amounts less than such minimum sum as may from time to time be prescribed by the Board.

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Sole right of issue

17. (1) The Central Bank shall have the sole right of issuing currency notes and coin for, on behalf of, and throughout Vanuatu and no other person shall issue currency notes, bank notes or coin or any documents or tokens payable to bearer on demand being documents or tokens having the appearance of currency notes or coin.

(2) Any person who contravenes this section shall be guilty of an offence and liable to a fine of FNH 140,000 or to imprisonment for seven years or to both such fine and imprisonment.

Printing and Minting

18. The Central Bank shall -

(a) arrange for all matters related to the printing of notes and the minting of coin;

(b) issue, re-issue and redeem such notes and coin; and

(c) arrange for the safe custody of unissued stocks of notes and coin and for the preparation, safe custody and destruction of plates for the printing of notes and of dies for the minting of coin and for the safe custody and disposal of withdrawn notes and coin which are not required for re-issue.

Denominations and form of currency

19. (1) Currency issued by the Central Bank shall be in such denominations, and of such composition, weight, form and design as shall be approved by the Minister after consultation with the Central Bank.

(2) The characteristics of currency to be issued by the Central Bank, shall, together with, in the case of coin, the amount of tolerance and variation which shall be allowed from the standard weight and composition, be published by the Central Bank in the Vanuatu Gazette.

Contracts etc. to be in vatu

20. (1) Every sale, bill of exchange, promissory note, security for money and every transaction, dealing, matter and thing whatsoever relating to money, or involving the payment of, or liability to pay any money which, but for this section, before the day Section 48 (1) (a) comes into force would have been deemed to be made, executed, entered into or done in or in relation either to the New Hebrides franc or to Australian currency shall in Vanuatu be deemed instead to be made, executed, entered into, done and had, in and in relation to an equivalent amount of vatu.....
Provided that this subsection shall not affect any obligation to pay any money in any country where Australian currency is legal tender or to a transaction in Australian currency involving a financial institution, or otherwise where the intention to settle in Australian currency is established beyond doubt.

(2) Subject to the proviso in sub-section (1), at the time of coming into force of this section a reference -

(a) in any law and in any subsidiary legislation made under any such law;

(b) in any bill of exchange, promissory note, security for money, contract or agreement (whether such contract or agreement is in writing or not), deed or other instrument; or

(c) in any other matter whatsoever, to an amount of money in either New Hebrides francs or Australian currency shall, unless the context otherwise requires be construed as a reference to a corresponding amount of vatu

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(3) For the purposes of this section, sums expressed in either New Hebrides francs or Australian currency shall be converted into Vatu on the basis of the initial value declared under the provisions of sections 49 and 50 (1).

Legal tender

21. (1) Subject to the provisions of this section currency issued by the Central Bank shall be legal tender in Vanuatu -

(a) in the case of notes for the payment of any amount;
(b) in the case of each denomination of coin for the payment of an amount not exceeding 20 times that denomination.

(2) A note or coin that has been illegally dealt with shall not be legal tender.

(3) For the purposes of this Act, a note or coin shall have been illegally dealt with if it has been impaired, diminished or lightened otherwise than by fair wear and tear, or has been defaced by having a name, word, device or number printed, stamped or engraved thereon whether it has or has not been thereby diminished

(4) (a) The Central Bank shall have power, on giving not less than three months' notice in the Vanuatu Gazette to that effect, to call in any currency notes and coins on payment of the face value thereof and any such currency notes and coins with respect to which such notice has been given shall, upon the expiration of such notice, be demonetised and cease to be legal tender.

Provided that the holders of any such notes or coin shall be entitled subject to paragraph (c) at any time to claim payment of the face value thereof from the Central Bank or where a transfer in respect thereof has been made under paragraph (b) to the Revenue Fund, from the Revenue Fund.

(b) When any notes or coin cease to be legal tender under paragraph (a) an amount equivalent to the face value of any such notes or coin remaining in circulation five years after they have so ceased to be legal tender shall be transferred to the Revenue Fund and written off the liabilities of the Central Bank.

(c) Where coins are presented for payment under the proviso to paragraph (a) more than five years after they have ceased to be legal tender the Central Bank may levy a handling charge of such amount as the Board may from time to time determine.

Certain notes and coin not redeemable

22. No person shall be entitled to recover from the Central Bank the value of any lost, stolen, mutilated or imperfect note or coin or of any note or coin which has been illegally dealt with, and the circumstances and conditions under which such value may be refunded as an act of grace shall be within the absolute discretion of the Central Bank.

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PART 6 - EXTERNAL RESERVE, FOREIGN EXCHANGE OPERATIONS AND REVALUATION RESERVE ACCOUNT

Reserve of external assets

23. The Central Bank shall at all times maintain a reserve of external assets consisting of all or any of the following :-

(a) gold;
(b) foreign exchange in the form of currency or bank balances held abroad;
(c) any internationally-recognised reserve asset;
(d) bills of exchange and promissory notes denominated in foreign currency and payable at any place outside Vanuatu;
(e) treasury bills issued by foreign governments specified from time to time by the Board;
(f) securities issued or guaranteed by foreign governments or international financial institutions specified from time to time by the Board.

Value of reserve of external assets

24. (1) The value of the reserve of external assets provided for in section 23 shall be not less than an amount equivalent to fifty per cent of the total demand liabilities of the Bank, including currency in circulation :
Provided that -

(a) for the purpose of the calculation of the value of the assets of the reserve the value of any gold or silver content of coin issued under the provisions of this Act may be recorded as an asset of the reserve and shall be calculated by reference to the latest known London market price for gold and silver bullion respectively; and
(b) the value so calculated shall not exceed the face value of such coin.

(2) If in the opinion of the Board the value of the reserve of external assets appears to be in danger of falling below the level required under sub-section (1), the Board shall submit to the Minister a report containing such recommendations as it considers appropriate to remedy the situation. The Board shall make further reports at intervals that shall not exceed one month until such time as, in the Board's opinion, the situation has been rectified.

(3) If the value of the reserve of external assets falls below the level specified in sub-section (1) for longer than ninety consecutive days the Board shall take such measures as it considers appropriate to remedy the situation and shall inform the Minister forthwith of the measures taken.

Operations in gold and foreign exchange

25. The Central Bank may -

(a) buy, sell, or deal in gold coin or bullion;
(b) buy, sell, or deal in foreign exchange using for such transactions any of the instruments commonly used in those transactions;
(c) buy, sell or deal in treasury bills and other securities issued or guaranteed by foreign governments or international financial institutions;
(d) maintain accounts with other central banks and financial institutions abroad;

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(e) open and maintain accounts and act as agent or correspondent for foreign central banks, monetary authorities, banks, foreign governments and agencies, and international financial institutions.

Revaluation Reserve Account

26.(1) The gains arising from any change in the valuation of the Central Bank's assets or liabilities in, or denominated in, gold or foreign currencies as a result of alterations in the value of the currency of Vanuatu as determined by the Central Bank in accordance with the provisions of section 15 or of any change in the values, parities or exchange rates of such assets or liabilities with respect to the currency of Vanuatu shall be credited to a Revaluation Reserve Account and neither they nor the losses arising from any such change shall be included in the computation of the annual profits or losses of the Central Bank.

(2) The losses arising from the change referred to in subsection (1) shall be set off against any credit balance in the Revaluation Reserve Account and, notwithstanding any other provision of this Act, if such balance is insufficient to cover such losses, the Government shall cause to be transferred to the ownership of the Central Bank non-negotiable non-interest bearing securities issued by the Government to the extent of the deficiency.

(3) Any credit balance in the Revaluation Reserve Account at the end of each financial year of the Central Bank shall be applied first against the losses in respect of which in accordance with the provisions of subsection (2) a transfer of securities has been made to the Central Bank by the Government to whom the securities shall be returned. One-fifth of the remaining balance shall be paid to the Government to be used for such purposes as the Government, after consultation with the Central Bank, may decide -

Provided that if the remaining balance does not exceed FNH five million it shall be paid in full to the Government.

(4) No credits or debits shall be made to the Revaluation Reserve Account except in accordance with the provisions of this section.

PART 7 - RELATIONS WITH BANKS AND OTHER FINANCIAL INSTITUTIONS

Opening accounts for financial institutions

27. The Central Bank may open accounts for, and accept deposits from financial institutions doing business in Vanuatu under such terms and conditions as the Board may from time to time determine.

Operations with account holders

28. The Central Bank may -

(a) issue drafts and effect other kinds of remittances payable at its own offices or at the offices of agents and correspondents;

(b) purchase from, sell to, discount and rediscount for account holders of the Central Bank, bills of exchange and promissory notes drawn or made for bona fide commercial, industrial, or agricultural purposes, bearing two or more good signatures of which one shall be that of a bank and maturing within 6 months from the date of their acquisition by the Central Bank;

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(c) purchase from, sell to, discount and rediscount for, account holders of the Central Bank any treasury bills of the Government forming part of a public issue and maturing within 6 months of the date of their acquisition by the Central Bank;

(d) grant, to account holders of the Central Bank advances for periods not exceeding 6 months secured by -

(i) instruments specified in paragraphs (b) and (c) of this section;

(ii) warehouse warrants and documents of title issued in respect of staple commodities or other goods duly insured;

(iii) holdings of any assets which the Central Bank is permitted to buy, sell, or deal in under section 25;

(iv) securities issued or guaranteed by the Government or any statutory corporation; subject to the provisions of section 39; or

(v) such other assets or on such terms and conditions as the Board may determine;

Provided that any advance granted under this paragraph shall be no greater than seventy-five per cent of the current value of the assets given as security as determined by the Central Bank.

Discounting of medium-term credits

29. (1) Notwithstanding the provisions of section 28, the Central Bank may, within a total limit to be determined by the Board, discount and rediscount for account holders, bills of exchange, promissory notes or other financial instruments maturing within 6 months from their date of acquisition by the Central Bank drawn or made in respect of medium-term credits repayable within seven years and bearing two or more good signatures of which one shall be that of a bank;

Provided that the medium-term credits -

(a) have as their object the development of means of production or the construction of buildings; and

(b) have been given prior approval by the Central Bank on such terms and conditions, which may include a requirement for appropriate guarantees, as the Board may prescribe.

(2) For the purposes of this section the Vanuatu Development Bank shall be considered to be a bank.

30. Determination of rates

The Central Bank shall determine and publicly announce from time to time its minimum rates for discounts, rediscounts, advances, loans or overdrafts, and may determine different rates for various classes of transactions or maturities.

31. Clearing and other services

The Central Bank may -

(a) in conjunction with banks organise facilities for the clearing of cheques and other instruments for effecting payments in Vanuatu;

(b) organise facilities, on the basis of information furnished by financial institutions, for the centralisation of data of,

(i) credit and banking risks;

(ii) unpaid cheques and other payment instruments.

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Provision of information by financial institutions

32. The Central Bank may require any financial institution to furnish, within such time and in such form as the Central Bank considers necessary, such information as the Central Bank considers necessary to enable the Central Bank to carry out its duties and functions under this Act and to calculate the amount of each financial institution's reserves which may be required under the provisions of section 34.

Provided that information regarding the account, or regarding any matter or thing relating to the affairs, of any individual depositor or other customer of a financial institution may not be required by the Central Bank by virtue of the provisions of this section.

Inspection of financial institutions

33. (1) The Central Bank may cause inspections to be made by one or more of its officers of the books and accounts of any financial institution which in the opinion of the Central Bank is in danger of being unable to meet its obligations.

(2) For the purpose of performing its duties under this Act, and in the event that the information required by section 32 is not supplied, the Central Bank may cause inspections to be made by one or more of its officers of the books and accounts of any financial institution to ascertain the nature of its business and the conditions of its affairs.

(3) The person or persons carrying out an inspection authorised in subsection (1) and (2) shall have power to require any director, officer or employee of the financial institution being inspected -

(a) to furnish such information as he or they may require for the purpose of such inspection; and

(b) to produce for inspection any books, records, or other documents in its possession containing such information :

Provided that the Central Bank or the person or persons carrying out such inspection shall not be entitled to any information about the affairs of any customer of such financial institution.

(4) If any information required to be furnished under subsection (3) (a) or if any item required to be produced under subsection (3)(b) has either not been furnished or produced or if furnished or produced has been falsified with intent to defraud any person or to deceive the officer or officers authorised to inspect the financial institution, the person responsible for such failure or for such falsification shall be guilty of an offence and shall be liable to a fine not exceeding FNH 100,000 or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Bank may prescribe reserves

34. (1) The Central Bank may from time to time by notice (a copy of which notice it shall submit or cause to be submitted to the principal place of business in Vanuatu of each financial institution) prescribe the maintenance by each financial institution of ordinary or special reserves, calculated with regard to deposits or loans and other similar liabilities or assets which are denominated in vatu ..... or the depositor or beneficiary of which is a resident of Vanuatu.

(2) For the avoidance of doubt, the deposits, credits and other similar liabilities and assets referred to in subsection (1) shall not include those relating to banking business carried on from within Vanuatu in accordance with Section 21 of the The Banking Regulation 1970 (Cap 8 QR) or by exempted companies, trusts and local companies that do no business in Vanuatu and exist solely for the benefit of non-residents of Vanuatu.

(3) Reserves referred to in subsection (1) shall be maintained in the form of holdings of vatu ..... notes and coin or of deposits with the Central Bank or in such other manner as the Central Bank may prescribe or in such proportions of each of the foregoing as the Central Bank may from time to time prescribe.

(4) The Central Bank may, at its discretion, fix a rate or rates of interest to be paid to financial institutions on all or part of any required reserves prescribed to be maintained under subsection (1).

(5) The Central Bank may prescribe different reserve ratios for different classes of deposit or loan and other similar liability or asset and shall prescribe the method of their computation :
Provided that -

(a) the Central Bank shall not require a financial institution to hold a total amount of reserves in excess of twenty-five per cent of that financial institution's total deposits or loans and other similar liabilities or assets in respect of which reserves have been prescribed under this section;

(b) the prescribed ratios shall be uniform for all financial institutions of the same class; and

(c) the initial prescription of, and any change in, the reserve ratios shall only be effective after reasonable notice, being not less than thirty days, and shall not relate to a period prior to the initial date of notice.

(6) The Central Bank may impose on any financial institution which fails to maintain the appropriate prescribed level of reserves a levy of one-fifth of one per cent per day of the amount of the deficiency in prescribed reserves until such time as the deficiency is corrected.

Regulation of interest and credit

35. (1) The Central Bank may, in relation to business in vatu ..... with the approval of the Minister, prescribe by Notice in the Vanuatu Gazette and by written notice to the principal place of business in Vanuatu of each financial institution -

(a) the methods of computation and maximum rates of interest payable in respect of deposits and other similar liabilities;

(b) the permissable purposes, aggregate ceilings and maximum amounts beyond which the approval of the Central Bank is necessary and the maximum maturities, and maximum interest rates chargeable in respect of advances, discounts, letters of credit, acceptances and other forms of credit.

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(2) The Central Bank may in relation to all other business with residents of Vanuatu, with the approval of the Minister, prescribe by notice in the Vanuatu Gazette and by written notice to the principal place of business in Vanuatu of each financial institution the permissable purposes and aggregate ceilings or maximum amounts beyond which the approval of the Central Bank is necessary and maximum maturities in respect of advances, discounts, letters of credit, acceptances and other forms of credit :
Provided that such business shall not include business of exempted companies, trusts and local companies that do no business in Vanuatu and exist solely for the benefit of non-residents of Vanuatu.

(3) The Central Bank in its notices under subsections (1) and (2) may differentiate in respect of those items between banks, financial institutions other than banks and other Creditors and, between individual financial institutions other than banks and individual other creditors.

(4) The Central Bank may, with the approval of the Minister, prescribe by notice in the Vanuatu Gazette and by written notice to the principal place of business in Vanuatu of each financial institution the minimum cash margin or security required in respect of the items specified in subsections (1) and (2).

(5) Any financial institution in wilful violation of subsection (1), (2) or (4) may be required to pay to the Central Bank for each such violation a penalty not to exceed FNH 100,000.

(6) With the approval of the Minister, the provisions of subsections (1), (2) and (4) may be made applicable by the Board, by notice in the Vanuatu Gazette and by written notice served on any person having as a principal or incidental object of his business the extension of credit. The Central Bank shall have authority to examine the accounts, books, and papers of any person who it has reason to suspect is extending or has extended credit in violation of this subsection and the refusal to submit such accounts, books and papers shall be prima facie evidence of such violation.

(7) Any person to whom the provisions of sub-sections (1), (2) or (4) have been made applicable pursuant to subsection (6) shall be guilty of an offence if -

(a) such person is in breach of this section; or

(b) such person supplies false information or fails to furnish, within a prescribed time, any information required by the Bank to satisfy it that such a person is complying with this section.

(8) Any person guilty of an offence under subsection (7) shall be liable on conviction -

(a) in respect of an offence under paragraph (a) thereof to a fine not exceeding FNH 100,000; or

(b) in respect of an offence under paragraph (b) thereof to a fine not exceeding FNH 10,000 for every day during which the offence is committed.

(9) Any notice under this section shall come into effect on such date as is specified in it but in any case not earlier than thirty days after the date of publication.

PART 8 - RELATIONS WITH THE GOVERNMENT

Central Bank to be banker, fiscal agent, depository and adviser to the Government

36. (1) The Central Bank shall -

(a) be the banker and fiscal agent of the Government and shall be

the depositary of Government funds:

Provided that the Central Bank may act in such capacities for any Ministry or Department of Government or any statutory corporation;

(b) act as agent for the Government in the execution of the provisions of any banking legislation currently in force and generally otherwise where it can do so;

(c) undertake, as agent for the Government, the issue, placement and service of any Government securities and act as registrar for such issues of Government securities;

(d) serve, upon designation by the Minister, as the depositary and fiscal agency of, and the institution through which dealings shall be conducted with, international financial institutions of which Vanuatu is a member;

(e) at the request of the Minister render advice to him and furnish him with reports on matters relating to the objects of the Central Bank set out in Section 3;

(f) have the duty of informing and advising the Minister on any matter which in the opinion of the Central Bank is likely to affect the achievement of its purposes;

(g) be consulted on any proposed Bill or Order concerning money and credit including -

(i) the value of the currency and any change thereof;

(ii) any matter relating to banking;

(iii) the distribution and control of credit;

(iv) the regulation of cheques and other financial instruments;

(v) the suppression of counterfeiting of currency;

and shall assist in the enforcement of any law relating to this section;

(h) be advised of the estimated expenditures and revenues of the Government in foreign exchange and shall be responsible for drawing up the national balance of payments, to which end it may ask all public and private bodies for any necessary statistical information.

(2) (a) If, after consultation with the Central Bank, the Minister is of the opinion that the policies being pursued by the Central Bank are not adequate for, or conducive to, the achievement of the objects of the Central Bank set out in Section 3, the Minister shall submit a recommendation to the Council of Ministers, and the Council of Ministers may, by directive, determine the policy to be adopted by the Central Bank.

(b) The Minister shall inform the Central Bank of the policy so determined and that the Government accepts responsibility for the adoption of the policy.

(c) The Central Bank shall thereupon give effect to such policy while the directive remains in operation.

(d) Any directive issued under paragraph (a) shall be published forthwith in the Vanuatu Gazette.

Acquisition of evidence of indebtedness issued by the Government

37. The Central Bank may buy, sell, or deal in notes, bills, stocks, shares, foreign exchange, securities or other evidence of indebtedness issued or guaranteed by the Government or any statutory corporation, or by the Government of another country, which were publicly offered for sale or form part of an issue which is being made to the public at the time of acquisition by the Central Bank and which mature in not more than twenty years.

Advances to Government

38. (1) The Central Bank may grant temporary advances to the Government in respect of temporary deficiencies of current budget revenue, subject to repayment within six months after the date on which they are granted, at such rates of interest as the Board may determine.

(2) If at the end of any financial year, any advance remains unpaid within the period provided for by subsection (1), such advance shall be taken into account when determining the maximum advances that may be made under such subsection in the following year.

(3) Without limiting the generality of subsection (1) the Central Bank is expressly authorised to make advances to the Government, on such terms and conditions as may be agreed, in respect of subscriptions and other payments resulting from, or incidental to, the membership of Vanuatu in any international financial institution, the participation of Vanuatu in any account thereof, and any transactions and operations undertaken in connection therewith.

Credit to the Government and statutory corporations

39. (1) Except in accordance with this section and sections 28, 37, and 38 the Central Bank shall not, directly or indirectly make advances to the Government or acquire the notes, bills, securities or other evidence of debt of, or guaranteed by, the Government:
Provided that this section shall not operate to prevent the acquisition by the Central Bank of securities in accordance with Section 5 (4) and Section 26 (2) or its making advances in accordance with Section 38 (3).

(2) The total amount of outstanding advances made by the Central Bank to the Government and the holdings by the Central Bank of notes, bills, securities or other evidences of debt of, or guaranteed by, the Government exclusive of credit permitted under Section 5 (4) and Section 26 (2) shall at no time exceed fifteen per cent of the average annual ordinary revenue of the Government as determined in subsection (3) except as provided in subsection (5).

(3) For the purposes of subsection (2) and (5) -

(a) the ordinary revenue of the Government shall include revenues from taxes, levies, duties and fees, rents, profits and income from any investment or undertaking by the Government and any contribution to the revenue of the Government from any statutory corporation but shall not include loans, grants, other forms of economic aid or capital raised;

(b) the average of the annual ordinary revenue shall mean the average of the annual ordinary revenues for the three financial years immediately preceding for which accounts are available.

(4) If in the opinion of the Board, the limitation provided in subsection (2) appears to be in danger of being exceeded, the Central Bank shall submit to the Minister a report containing such recommendations as it considers appropriate to remedy the situation. The Central Bank shall make further reports at intervals not to exceed three months until such time as, in its opinion, the situation has been rectified.

(5) If the limitation provided for in subsection (2) is reached, the Central Bank shall forthwith notify the Minister of the fact and shall permit no further increase, whether directly or indirectly, in the Central Bank's advances to the Government and holdings by it of Government debt:
Provided that the Minister may by written directive order the Central Bank to permit temporary further increases in the total subject to an overall limitation of twenty per cent of the average annual ordinary revenue of Government on such terms and conditions as may be determined

by the Government for a period not exceeding six months, in which event the Minister shall advise the Central Bank that the Government accepts responsibility for the adoption of the policy so determined, and the Central Bank shall thereupon give effect to that policy while the directive remains in operation.

PART 9 - ACCOUNTS, AUDIT AND REPORTS

Financial year

40. The Financial year of the Central Bank shall be the same as the financial year of the Government.

Audit

41. (1) The accounts of the Central Bank shall be audited annually by auditors appointed by the Board with the approval of the Minister.

(2) Without prejudice to the provisions of subsection (1) the Minister may at any time request the Auditor-General to examine and report on the accounts of the Central Bank or any aspect of the Bank's operations and the Central Bank shall provide the Auditor-General with all necessary and proper facilities for such an examination.

Publication of accounts and annual report

42. (1) The Central Bank shall, within four months after the end of each financial year, cause to be made and transmit to the Minister -

(a) a report of the operations of the Central Bank during that year; and

(b) a copy of the annual statement of accounts of the Central Bank certified by the auditors appointed under section 41.

(2) The Minister shall as soon as practicable after their receipt -

(a) cause a copy of the report and annual statement of accounts to be laid before Parliament; and

(b) cause a copy of the annual accounts to be published in the Vanuatu Gazette.

(3) The Central Bank shall as soon as practicable after -

(a) the last working day in March, June, September and December of each year make up and publish in the Vanuatu Gazette, a statement showing its assets and liabilities at the close of business on that day; and

(b) the last working day in each month transmit a similar statement to the Minister.

PART 10 - GENERAL

Exemption from taxes and stamp duties

43. The Central Bank shall be exempt from all taxes and stamp duties on its profits, operations, capital, property and bank notes and documents.

Prohibited activities

44. Except as expressly authorised by this Act, the Central Bank may not -

(a) engage in trade, purchase the shares of any corporation or company, including the shares of any banking company or otherwise have an ownership interest in any commercial, agricultural, industrial, and other undertaking, except such interest as the Central Bank may acquire in the course of satisfaction of debts due to it :

Provided that all such interests so acquired shall be disposed of at the earliest suitable opportunity.

(b) make loans to any person, except, that the Central Bank shall not be precluded from making loans secured by first mortgages or otherwise to an officer or servant of the Central Bank for the purchase of a residence or for such other purpose as may be approved by the Central Bank.

(c) purchase, acquire or lease real property except in so far as the Board considers necessary or expedient for the provision or future provision of business premises for the Central Bank or its branches, or of residences for officers or servants of the Central Bank or of any other requirement incidental to the performance of its functions under this Act.

Dealings in shares for Development purposes

45. Notwithstanding the provisions of Section 44 (a), the Central Bank may, with the approval of the Minister, purchase, hold and sell shares in any corporation set up with the approval of the Government for the purpose of facilitating the financing of development: Provided that the total value of any holding of such shares shall not at any time exceed an amount equivalent to twenty per cent of the General Reserve.

Prohibited names

46. Save with the written consent of the Minister on the recommendation of the Central Bank, no bank shall hereafter be licensed under any banking legislation in Vanuatu by a name which includes any of the words "Vanuatu", "Central", "Reserve", "Republic" or "State", or their equivalent in any other language.

Exemption from banking laws

47. The Central Bank shall not be subject to any of the provisions of any current banking laws in Vanuatu.

PART 11 - TRANSITIONAL PROVISIONS

Transfer of assets and liabilities

48. (1) The Minister by notice in the Vanuatu Gazette shall declare the day or days upon which by agreement the Central Bank shall take over :-

(a) the currency issue and corresponding assets which are entrusted to it by the Government; and

(b) all external assets held by or on behalf of the Government.

(2) If, on the day or days declared by the Minister under subsection (1) the net assets acquired by the Central Bank in terms of subsection (1) exceed the authorised capital of the Central Bank, the excess shall be allocated to the General Reserve referred to in section 7.

New Hebrides francs to become vatu

49. On the day that section 48 (1) (a) comes into force, notes and coin denominated in New Hebrides francs shall be deemed thereafter to be notes and coin denominated in vatu. Notwithstanding the provisions of section 15, the initial value of one vatu shall be equal to (0.061875) of a French franc and one vatu shall be equal to one New Hebrides franc.

Conversion of Australian currency

50. (1) On the day that section 48 (1) (a) comes into force, the Bank shall, for the purposes of section 20 (3), declare a rate at which Australian currency shall be converted, having regard to international exchange rates for French francs and Australian currency at the time.

(2) For a period of three months from a day to be appointed by the Minister by notice in the Vanuatu Gazette the Central Bank shall issue notes and coin free of commission or charges in exchange for Australian currency at a rate set by, and at the discretion of, the Central Bank, having regard to international exchange rates for French francs and Australian currency.

Inclusion of Australian currency in reserve of external assets

51. For a period of two years following the commencement of this Act, the Board may include in the reserve of external assets of the Central Bank provided for under Section 23 Australian currency which has been exchanged in Vanuatu and which has at any time been legal tender in Australia and which is still redeemable in Australia.

Commencement

52. This Act shall come into force on such day as the Minister may appoint by Order published in the Vanuatu Gazette and the Minister may appoint different days for different provisions and any reference in any provision to the commencement of this Act shall be construed as a reference to the day appointed under this Section for the coming into force of that provision.