

LAWS OF THE REPUBLIC OF VANUATU

**COMPANIES
[CAP. 191.]**

**SCHEDULE 5
(Repealed)**

SCHEDULE 6

Accounts

PRELIMINARY

Paragraphs 1 to 11 of this Schedule apply to the balance sheet and 12 to 16 to the profit and loss account, and are subject to the exceptions and modifications provided for by Part II of this Schedule in the case of a holding or subsidiary company; and this Schedule has effect in addition to the provisions of section 206 of this Act.

PART I

**GENERAL PROVISIONS AS TO BALANCE SHEET
AND PROFIT AND LOSS ACCOUNT**

Balance Sheet

1. The authorised share capital, issued share capital, liabilities and assets shall be summarised, with such particulars as are necessary to disclose the general nature of the assets and liabilities, and there shall be specified -
 - (a) any part of the issued capital that consists of redeemable preference shares, the earliest and latest dates on which the company has power to redeem those shares, whether those shares must be redeemed in any event or are liable to be redeemed at the option of the company and whether any (and, if so, what) premium is payable on redemption;
 - (b) so far as the information is not given in the profit and loss account, any share capital on which interest has been paid out of capital during the financial year, and the rate at which interest has been so paid;
 - (c) the amount of the share premium account;
 - (d) particulars of any redeemed debentures which the company has power to re-issue.

1. There shall be stated under separate headings, so far as they are not written off –

- (a) the preliminary expenses;
 - (b) any expenses incurred in connection with any issue of share capital or debentures;
 - (c) any sums paid by way of commission in respect of any shares or debentures; and
 - (d) any sums allowed by way of discount in respect of any debentures.
3. (1) The reserves, provisions, liabilities and assets shall be classified under headings appropriate to the company's business:
- Provided that -
- (a) where the amount of any class is not material, it may be included under the same heading as some other class; and
 - (b) where any assets of one class are not separable from assets of another class, those assets may be included under the same heading.
- (2) Fixed assets, current assets and assets that are neither fixed nor current shall be separately identified.
- (3) The method or methods used to arrive at the amount of the fixed assets under each heading shall be stated.
4. (1) The method of arriving at the amount of any fixed asset shall, subject to the next following subparagraph, be to take the difference between -
- (a) its cost or, if it stands in the company's books at a valuation, the amount of the valuation; and
 - (b) the aggregate amount provided or written off since the date of acquisition or valuation, as the case may be, for depreciation or diminution in value;
- and for the purposes of this paragraph the net amount at which any assets stand in the company's books at the commencement of this Act (after deduction of the amounts previously provided or written off for depreciation or diminution in value) shall, if the figures relating to the period before the commencement of this Act cannot be obtained without unreasonable expense or delay, be treated as if it were the amount of a valuation of those assets made at the commencement of this Act and, where any of those assets are sold, the said net amount less the amount of the sales shall be treated as if it were the amount of a valuation so made of the remaining assets.
- (2) Subparagraph (1) shall not apply -
- (a) to assets for which the figures relating to the period beginning with the commencement of this Act cannot be obtained without unreasonable expense or delay; or
 - (b) to assets the replacement of which is provided for wholly or partly -

- (i) by making provision for renewals and charging the cost of replacement against the provision so made; or
 - (ii) by charging the cost of replacement direct to revenue; or
 - (c) to any quoted investments or to any unquoted investments of which the value as estimated by the directors is shown either as the amount of the investments or by way of note; or
 - (d) to goodwill, patents or trade marks.
 - (3) For the assets under each heading whose amount is arrived at in accordance with subparagraph (1), there shall be shown -
 - (a) the aggregate of the amounts referred to in subparagraph (1)(a); and
 - (b) the aggregate of the amounts referred to in subparagraph (1)(b).
 - (4) As respects the assets under each heading whose amount is not arrived at in accordance with the said subparagraph (1) because their replacement is provided for as mentioned in subparagraph (2)(b), there shall be stated -
 - (a) the means by which their replacement is provided for; and
 - (b) the aggregate amount of the provision (if any) made for renewals and not used.
5. In the case of unquoted investments consisting in equity share capital (as defined by section 158(5) of this Act) of other bodies corporate (other than any whose values as estimated by the directors are separately shown, either individually or collectively or as to some individually and as to the rest collectively, and are so shown either as the amount thereof, or by way of note), the matters referred to in the following heads shall, if not otherwise shown, be stated by way of note or in a statement or report annexed -
- (a) the aggregate amount of the company's income for the financial year that is ascribable to the investments;
 - (b) the amount of the company's share of the net aggregate amount of the profits of the bodies in which the investments are held, being profits for the several periods to which accounts sent by them during the financial year to the company related, after deducting those bodies' losses for those periods (or vice versa);
 - (c) the amount of the company's share of the net aggregate amount of the undistributed profits accumulated by the bodies in which the investments are held since the time when the investments were acquired, after deducting the losses accumulated by them since that time (or vice versa);
 - (d) the manner in which any losses incurred by the said bodies have been dealt with in the company's accounts.

6. The aggregate amounts respectively of reserves and provisions (other than provisions for depreciation, renewals or diminution in value of assets) shall be stated under separate headings:

Provided that -

- (a) this paragraph shall not require a separate statement of either of the said amounts which is not material; and
 - (b) the Minister may direct that he shall not require a separate statement of the amount of provisions where he is satisfied that that is not required in the public interest and would prejudice the company, but subject to the condition that any heading stating an amount arrived at after taking into account a provision (other than as aforesaid) shall be so framed or marked as to indicate that fact.
7. (1) There shall also be shown (unless it is shown in the profit and loss account or a statement or report annexed thereto, or the amount involved is not material) -
- (a) where the amount of the reserves or of the provisions (other than provisions for depreciation, renewals or diminution in value of assets) shows an increase as compared with the amount at the end of the immediately preceding financial year, the source from which the amount of the increase has been derived; and
 - (b) where –
 - (i) the amount of the reserves shows a decrease as compared with the amount at the end of the immediately preceding financial year; or
 - (ii) the amount at the end of the immediately preceding financial year of the provisions (other than provisions for depreciation, renewals or diminution in value of assets) exceeded the aggregate of the sums since applied and amounts still retained for the purposes thereof;the application of the amount derived from the difference.
- (2) Where the heading showing the reserves or any of the provisions aforesaid is divided into sub-headings, this paragraph shall apply to each of the separate amounts shown in the sub-headings instead of applying to the aggregate amount thereof.
8. (1) There shall be shown under separate headings -
- (a) the aggregate amounts respectively of the company's quoted investments and unquoted investments;
 - (b) if the amount of the goodwill and of any patents and trade marks or part of that amount is shown as a separate item in or is otherwise ascertainable from the books of the company, or from any contract for the sale or purchase of any property to be acquired by the company, or

from any documents in the possession of the company relating to the stamp duty payable in respect of any such contract or the conveyance of any such property, the said amount so shown or ascertained so far as not written off or, as the case may be, the said amount so far as it is so shown or ascertainable and as so shown or ascertained, as the case may be;

- (c) the aggregate amount of any outstanding loans made under the authority of provisos (b) and (c) of section 65(l) of this Act;
- (d) the aggregate amount of bank loans and overdrafts and the aggregate amount of loans made to the company which -
 - (i) are repayable otherwise than by instalments and fall due for repayment after the expiration of the period of 5 years beginning with the day next following the expiration of the financial year; or
 - (ii) are repayable by instalments any of which fall due for payment after the expiration of that period;

not being, in either case, bank loans or overdrafts;

- (e) the aggregate amount which is recommended for distribution by way of dividend.
- (2) Nothing in head (b) of subparagraph (1) shall be taken as requiring the amount of the goodwill, patents and trade marks to be stated otherwise than as a single item.
 - (3) The heading showing the amount of the quoted investments shall be subdivided, where necessary, to distinguish the investments as respects which there has, and those as respect which there has not, been granted a quotation or permission to deal on a recognised stock exchange.
 - (4) In relation to each loan falling within head (d) of subparagraph (1) (other than a bank loan or overdraft), there shall be stated by way of note (if not otherwise stated) the terms on which it is repayable and the rate at which interest is payable thereon:

Provided that if the number of loans is such that, in the opinion of the directors, compliance with the foregoing requirement would result in a statement of excessive length, it shall be sufficient to give a general indication of the terms on which the loans are repayable and the rates at which interest is payable thereon.

- 9. Where any liability of the company is secured otherwise than by operation of law on any assets of the company, the fact that that liability is so secured shall be stated, but it shall not be necessary to specify the assets on which the liability is secured.
- 10. Where any of the company's debentures are held by a nominee of or trustee for the company, the nominal amount of the debentures and the amount at which they are stated in the books of the company shall be stated.

11. (1) The matters referred to in the following subparagraphs shall be stated by way of note, or in a statement or report annexed, if not otherwise shown.
- (2) The number, description and amount of any shares in the company which any person has an option to subscribe for, together with the following particulars of the option, that is to say -
 - (a) the period during which it is exercisable;
 - (b) the price to be paid for shares subscribed for under it.
- (3) The amount of any arrears of fixed cumulative dividends on the company's shares and the period for which the dividends or, if there is more than one class, each class of them are in arrear.
- (4) Particulars of any charge on the assets of the company to secure the liabilities of any other person, including, where practicable, the amount secured.
- (5) The general nature of any other contingent liabilities not provided for and, where practicable, the aggregate amount or estimated amount of those liabilities, if it is material.
- (6) Where practicable the aggregate amount or estimated amount, if it is material, of contracts for capital expenditure, so far as not provided for and, where practicable, the aggregate amount or estimated amount, if it is material, of capital expenditure authorised by the directors which has not been contracted for.
- (7) In the case of fixed assets under any heading whose amount is required to be arrived at in accordance with paragraph 4(1) (other than unquoted investments) and is so arrived at by reference to a valuation, the years (so far as they are known to the directors) in which the assets were severally valued and the several values, and, in the case of assets that have been valued during the financial year, the names of the persons who valued them or particulars of their qualifications for doing so and (whichever is stated) the bases of valuation used by them.
- (8) If there are included amongst fixed assets under any heading (other than investments) assets that have been acquired during the financial year, the aggregate amount of the assets acquired as determined for the purpose of making up the balance sheet, and if during that year any fixed assets included under a heading in the balance sheet made up with respect to the immediately preceding financial year (other than investments) have been disposed of or destroyed, the aggregate amount thereof as determined for the purpose of making up that balance sheet.
- (9) Of the amount of fixed assets consisting of land, how much is ascribable to land of freehold tenure and how much to land of leasehold tenure, and, of the latter, how much is ascribable to land held on long lease and how much to land held on short lease.
- (10) If in the opinion of the directors any of the current assets have not a value, on realization in the ordinary course of the company's business, at least equal to the amount at which they are stated, the fact that the directors are of that opinion.

- (11) The aggregate market value of the company's quoted investments where it differs from the amount of the investments as stated, and the stock exchange value of any investments of which the market value is shown (whether separately or not) and is taken as being higher than their stock exchange value.
- (12) If the amount carried forward for stock in trade or work in progress is material for the appreciation by its members of the company's state of affairs or of its profit or loss for the financial year, the manner in which that amount has been computed.
- (13) The basis on which foreign currencies have been converted into the currency of account where the amount of the assets or liabilities affected is material.
- (14) Except in the case of the first balance sheet laid before the company after the commencement of this Act, the corresponding amounts at the end of the immediately preceding financial year for all items shown in the balance sheet.

Profit and Loss Account

12. (1) There shall be shown -
 - (a) the amount charged to revenue by way of provision for depreciation, renewals or diminution in value of fixed assets;
 - (b) the amount of the interest on loans of the following kinds made to the company (whether on the security of debentures or not), namely, bank loans, overdrafts and loans which, not being bank loans or overdrafts -
 - (i) are repayable otherwise than by instalments and fall due for repayment before the expiration of the period of 5 years beginning with the day next following the expiration of the financial year; or
 - (ii) are repayable by instalments the last of which falls for payment before the expiration of that period;and the amount of the interest on loans of other kinds so made (whether on the security of debentures or not);
 - (c) the amounts respectively provided for redemption of share capital and for redemption of loans;
 - (d) the amount, if material, set aside or proposed to be set aside to, or withdrawn from, reserves;
 - (e) subject to subparagraph (2), the amount, if material, set aside to provisions other than provisions for depreciation, renewals or diminution in value of assets or, as the case may be, the amount, if material, withdrawn from such provisions and not applied for the purposes thereof;

- (f) the amounts respectively of income from quoted investments and income from unquoted investments;
 - (g) if a substantial part of the company's revenue for the financial year consists in rents from land, the amount thereof (after deduction of ground-rents, rates and other out-goings);
 - (h) the amount, if material, charged to revenue in respect of sums payable in respect of the hire of plant and machinery;
 - (i) the aggregate amount of the dividends paid and proposed.
- (2) The registrar may direct that a company shall not be obliged to show an amount set aside to provisions in accordance with subparagraph (1)(e), if the registrar is satisfied that that is not required in the public interest and would prejudice the company, but subject to the condition that any heading stating an amount arrived at after taking into account the amount set aside as aforesaid shall be so framed or marked as to indicate that fact.
- (3) If, in the case of any assets in whose case an amount is charged to revenue by way of provision for depreciation or diminution in value, an amount is also so charged by way of provision for renewal thereof, the last-mentioned amount shall be shown separately.
- (4) If the amount charged to revenue by way of provision for depreciation or diminution in value of any fixed assets (other than investments) has been determined otherwise than by reference to the amount of those assets as determined for the purpose of making up the balance sheet, that fact shall be stated.
13. The amount of any charge arising in consequence of the occurrence of an event in a preceding financial year and of any credit so arising shall, if not included in a heading relating to other matters, be stated under a separate heading.
14. The amount of the remuneration of the auditors shall be shown under a separate heading, and for the purposes of this paragraph, any sums paid by the company in respect of the auditors' expenses shall be deemed to be included in the expression "remuneration".
15. (1) The matters referred to in subparagraphs (2) and (4) below shall be stated by way of note, if not otherwise shown.
- (2) The turnover for the financial year, except in so far as it is attributable to the business of such class as may be prescribed for the purposes of this subparagraph.
- (3) If some or all of the turnover is omitted by reason of its being attributable as aforesaid, the fact that it is omitted.
- (4) The method by which turnover stated is arrived at.

- (5) A company shall not be subject to the requirements of this paragraph if it is neither a holding company nor a subsidiary of another body corporate and the turnover which, apart from this subparagraph, would be required to be stated does not exceed VT10,000,000.
16. (1) The matters referred to in the following subparagraphs shall be stated by way of note, if not otherwise shown.
- (2) If depreciation or replacement of fixed assets is provided for by some method other than a depreciation charge or provision for renewals, or is not provided for, the method by which it is provided for or the fact that it is not provided for, as the case may be.
- (3) Except in the case of the first profit and loss account laid before the company after the commencement of this Act the corresponding amounts for the immediately preceding financial year for all items shown in the profit and loss account.
- (4) Any material respects in which any items shown in the profit and loss account are affected -
- (a) by transactions of a sort not usually undertaken by the company or otherwise by circumstances of an exceptional or non-recurrent nature; or
- (b) by any change in the basis of accounting.

PART II

SPECIAL PROVISIONS WHERE THE COMPANY IS A HOLDING OR SUBSIDIARY COMPANY

Modifications of and Additions to Requirements as to Company's own Accounts

17. (1) This paragraph shall apply where the company is a holding company, whether or not it is itself a subsidiary of another body corporate.
- (2) The aggregate amount of assets consisting of shares in, or amounts owing (whether on account of a loan or otherwise) from, the company's subsidiaries, distinguishing shares from indebtedness, shall be set out in the balance sheet separately from all the other assets of the company, and the aggregate amount of indebtedness (whether on account of a loan or otherwise) to the company's subsidiaries shall be so set out separately from all its other liabilities and -
- (a) the references in Part I of this Schedule to the company's investments (except those in paragraphs 11(8) and 12(4)) shall not include investments in its subsidiaries required by this paragraph to be separately set out; and
- (b) paragraph 4, paragraph 12(1)(a), and paragraph 16(2) of this Schedule shall not apply in relation to fixed assets consisting of interests in the company's subsidiaries.

- (3) There shall be shown by way of note on the balance sheet or in a statement or report annexed thereto the number, description and amount of the shares in and debentures of the company held by its subsidiaries or their nominees, but excluding any of those shares or debentures in the case of which the subsidiary is concerned as personal representative or in the case of which it is concerned as trustee and neither the company nor any subsidiary thereof is beneficially interested under the trust, otherwise than by way of security only for the purposes of a transaction entered into by it in the ordinary course of a business which includes the lending of money.
- (4) Where group accounts are not submitted, there shall be annexed to the balance sheet a statement showing -
- (a) the reasons why subsidiaries are not dealt with in group accounts;
 - (b) the net aggregate amount, so far as it concerns members of the holding company and is not dealt with in the company's accounts, of the subsidiaries' profits after deducting the subsidiaries' losses (or vice versa) -
 - (i) for the respective financial years of the subsidiaries ending with or during the financial year of the company; and
 - (ii) for their previous financial years since they respectively became the holding company's subsidiary;
 - (c) the net aggregate amount of the subsidiaries' profits after deducting the subsidiaries' losses (or vice versa) -
 - (i) for the respective financial years of the subsidiaries ending with or during the financial year of the company; and
 - (ii) for their previous financial years since they respectively became the holding company's subsidiary;so far as those profits are dealt with, or provision is made for those losses, in the company's accounts;
 - (d) any qualifications contained in the report of the auditors of the subsidiaries on their accounts for their respective financial years ending as aforesaid, and any note or saving contained in those accounts to call attention to a matter which, apart from the note or saving, would properly have been referred to in such a qualification, is so far as the matter which is the subject of the qualification or note is not covered by the company's own accounts and is material from the point of view of its members;

or, in so far as the information required by this subparagraph is not obtainable, a statement that it is not obtainable:

Provided that the Minister may, on the application or with the consent of the company's directors, direct that in relation to any subsidiary this subparagraph shall not apply or shall apply only to such extent as may be provided by the direction.

- (5) Paragraphs (b) and (c) of subparagraph (4) shall apply only to profits and losses of a subsidiary which may properly be treated in the holding company's accounts as revenue profits or losses, and the profits or losses attributable to any shares in a subsidiary for the time being held by the holding company or any other of its subsidiaries shall not (for that or any other purpose) be treated as aforesaid so far as they are profits or losses for the period before the date on or as from which the shares were acquired by the company or any of its subsidiaries, except that they may in a proper case be so treated where –
- (a) the company is itself the subsidiary of another body corporate; and
 - (b) the shares were acquired from that body corporate or a subsidiary of it;
- and for the purpose of determining whether any profits or losses are to be treated as profits or losses for the said period the profit or loss for any financial year of the subsidiary may, if it is not practicable to apportion it with reasonable accuracy by reference to the facts, be treated as accruing from day to day during that year and be apportioned accordingly.
- (6) Where group accounts are not submitted, there shall be annexed to the balance sheet a statement showing, in relation to the subsidiaries (if any) whose financial years did not end with that of the company -
- (a) the reasons why the company's directors consider that the subsidiaries' financial years should not end with that of the company; and
 - (b) the dates on which the subsidiaries' financial years ending last before that of the company respectively ended or the earliest and latest of those dates.
18. (1) The balance sheet of a company which is a subsidiary of another body corporate, whether or not it is itself a holding company, shall show the aggregate amount of its indebtedness to all bodies corporate of which it is a subsidiary or a fellow subsidiary and the aggregate amount of indebtedness of all such bodies corporate to it, distinguishing in each case between indebtedness in respect of debentures and otherwise, and the aggregate amount of assets consisting of shares in fellow subsidiaries.
- (2) For the purposes of this paragraph a company shall be deemed to be a fellow subsidiary of another body corporate if both are subsidiaries of the same body corporate but neither is the other's.

Consolidated Accounts of Holding Company and Subsidiaries

19. Subject to the following paragraphs of this Part of this Schedule, the consolidated balance sheet and profit and loss account shall combine the information contained in the separate balance sheets and profit and loss accounts of the holding company and of the subsidiaries dealt with by the consolidated accounts, but with such adjustments (if any) as the directors of the holding company think necessary.

20. Subject as aforesaid, the consolidated accounts shall, in giving the said information, comply so far as practicable, with the requirements of this Act as if they were the accounts of an actual company.
21. Sections 152 and 206 of this Act shall not, by virtue of paragraphs 19 and 20, apply for the purpose of the consolidated accounts.
22. Paragraph 7 of this Schedule shall not apply for the purpose of any consolidated accounts laid before a company with the first balance sheet so laid after the commencement of this Act.
23. In relation to any subsidiaries of the holding company not dealt with by the consolidated accounts -
 - (a) subparagraphs (2) and (3) of paragraph 17 shall apply for the purpose of those accounts as if those accounts were the accounts of an actual company of which they were subsidiaries; and
 - (b) there shall be annexed the like statement as is required by subparagraph (4) of paragraph 17 where there are no group accounts, but as if references therein to the holding company's accounts were references to the consolidated accounts.
23. In relation to any subsidiaries (whether or not dealt with by the consolidated accounts), whose financial years did not end with that of the company, there shall be annexed the like statement as is required by subparagraph (6) of paragraph 17 where there are no group accounts.

PART III

Interpretation of Schedule

25. (1) For the purposes of this Schedule, unless the context otherwise requires -
 - (a) the expression "provision" shall, subject to subparagraph (2), mean any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets or retained by way of providing for any known liability of which the account cannot be determined with substantial accuracy;
 - (b) the expression "reserve" shall not, subject as aforesaid, include any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets or retained by way of providing for any known liability;and in this paragraph the expression "liability" shall include all liabilities in respect of expenditure contracted for and all disputed or contingent liabilities.
- (2) Where -

- (a) any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets, not being an amount written off in relation to fixed assets before the commencement of this Act; or
- (b) any amount retained by way of providing for any known liability;

is in excess of that which in the opinion of the directors is reasonably necessary for the purpose, the excess shall be treated for the purposes of this Schedule as a reserve and not as a provision.

- 26. For the purposes aforesaid, the expression "quoted investment" means an investment as respects which there has been granted a quotation or permission to deal on an approved stock exchange, or on any stock exchange of repute outside Vanuatu, and the expression "unquoted investment" shall be construed accordingly.
 - 27. For the purposes aforesaid, the expression "long lease" means a lease in the case of which the portion of the term for which it was granted remaining unexpired at the end of the financial year is not less than 50 years; the expression "short lease" means a lease which is not a long lease; and the expression "lease" includes an agreement for a lease.
 - 28. For the purposes aforesaid, a loan shall be deemed to fall due for repayment, and an instalment of a loan shall be deemed to fall due for payment, on the earliest date on which the lender could require repayment or, as the case may be, payment if he exercised all options and rights available to him.
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