



REPUBLIC OF VANUATU

**STATUTE LAW (MISCELLANEOUS PROVISIONS)
ACT NO. 35 OF 2017**

Arrangement of Sections

1	Amendment.....	2
2	Repeal of Act.....	3
3	Commencement	3

REPUBLIC OF VANUATU

Assent: 28/12/2017
Commencement: 13/02/2018

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT NO. 35 OF 2017

An Act to provide for the amendments to certain Acts.

Be it enacted by the President and Parliament as follows-

1 Amendment

The following Acts are amended as set out in the Schedule:

- (a) Civil Status Act [CAP 61];
- (b) Company and Trust Services Provider Act No. 8 of 2010;
- (c) Convention on the Conservation and the Management of High Seas Fisheries Resources in the North Pacific Ocean (Ratification) Act No. 18 of 2016;
- (d) Customs Act No. 7 of 2013;
- (e) Decentralization Act [CAP 230];
- (f) Family Protection Act No. 28 of 2008;
- (g) Financial Dealers Licensing Act [CAP 70];
- (h) Immigration Act No.17 of 2010;
- (i) National Council of Chiefs Act No. 23 of 2006;
- (j) Penal Code Act [CAP 135];
- (k) Police Act [CAP 105];
- (l) Public Holidays Act [CAP 114];
- (m) Public Prosecutor Act [CAP 293];
- (n) Quarry Act No.9 of 2013;

-
- (o) Representation of the People Act [CAP 146];
 - (p) Road Traffic (Control) Act [CAP 29];
 - (q) Telecommunications and Radiocommunications Regulation Act No. 30 of 2009;
 - (r) Vanuatu Financial Service Commission Act [CAP 299].

2 Repeal of Act

- (1) This Act is repealed on the day following the day on which all provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 11 of the Interpretation Act [CAP 132], affect any amendments made by this Act.

3 Commencement

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

SCHEDULE
MINOR AMENDMENTS

1 CIVIL STATUS ACT [CAP 61]

Section 14

Repeal the section, substitute

“14 Amending entries in the register

(1) The Registrar-General may, on the application of the parent or guardian of the child, or of that person, and after such enquiry as may be necessary, enter in the register, without cancelling the original entry, the name given to the child, or the change in the name, if:

(a) the birth of any child has been declared before the child has received a name; or

(b) the name by which the birth of any person has been declared has been changed.

(2) The Registrar-General must not enter in the register the change of name of a person who holds dual citizenship under the Citizenship Act [CAP 112], unless the person has changed his or her name on his or her original birth certificate, or passport of his or her country of origin.”

2 COMPANY AND TRUST SERVICES PROVIDER ACT NO. 8 OF 2010

(a) Subsection 2(1) (Definition of “exempted company”)

Repeal the definition.

(b) Subsection 2(2)

Delete “an exempted company or”

3 CONVENTION ON THE CONSERVATION AND THE MANAGEMENT OF HIGH SEAS FISHERIES RESOURCES IN THE NORTH PACIFIC OCEAN (RATIFICATION) ACT NO. 18 OF 2016

Long Title

Delete “act”, substitute “Act”

4 CUSTOMS ACT NO. 7 of 2013

After subparagraph 180(1)(a)(viii)

Insert

- “(ix) subsection 73(5) (which relates to goods unentered or duty paid);
- (x) subsection 73(6) (which relates to goods not duty paid);
- (xi) section 172 (which relates to goods used for purposes other than that for which they are entered, or fails to comply with a condition imposed);”

5 DECENTRALIZATION ACT [CAP 230]

(a) Paragraph 18B(1)(i)

Delete “.”, substitute “;

- (j) a person who is in default of payment of any rates, charges or other debts due to the council for a period exceeding 2 months after the same is due.”

(b) After section 18B

Insert

“18BA Arrangement for payment of any rates, charges or other debts due to the council

- (1) For the purpose of paragraph 18B(1)(j), an arrangement with the council for payment of any rates, charges or other debts due to the council after the period set out in that paragraph disqualifies a person for election to a Provincial Council.
- (2) A person must provide to the Electoral Commission, an original copy of the receipt certifying that the council has received such payment referred to in paragraph 18B(1)(j).”

(c) After section 18GA

Insert

“18GB Area Council Administrator

- (1) The Public Service Commission is to appoint in writing an Area Council Administrator.
- (2) The provisions of the Public Service Act [CAP 246] apply in relation to this appointment.”

6 FAMILY PROTECTION ACT NO. 28 OF 2008

(a) Subsection 7(6)

Delete "Prime Minister's Department", substitute "Office of the Prime Minister"

(b) Paragraphs 7(3)(a) and 8(4)(a)

Delete "Prime Minister's Department", substitute "Office of the Prime Minister"

7 FINANCIAL DEALERS LICENSING ACT [CAP 70]

(a) At the end of section 4

Add

"(4) The Commissioner must not grant a principal's licence to a person unless the person has paid a principal's licence fee of VT 50,000 or such higher amount prescribed by the Rules."

(b) At the end of section 4A

Add

"(4) The Commissioner must not grant a representative's licence to a person unless the person has paid a representative's licence fee of VT25,000 or such higher amount prescribed by the Rules."

8 IMMIGRATION ACT NO. 17 OF 2010

(a) Section 1 – Interpretation (definition of Principal Immigration Officer)

Repeal the definition.

(b) Section 7

Repeal the section.

9 NATIONAL COUNCIL OF CHIEFS ACT NO. 23 OF 2006

Delete all reference to "Chairman", substitute "President"

10 PENAL CODE ACT [CAP 132]

Section 92

Repeal the section, substitute

"92 Abduction

(1) A person must not, with intent to marry, have sexual intercourse with a male or female of any age, or to cause him or her to be married or to have

sexual intercourse with any other person, take him or her away or detain him or her against his or her will.

- (2) A person who contravenes subsection (1), commits an offence punishable on conviction to a term of imprisonment not exceeding 10 years.”

11 POLICE ACT [CAP 105]

(a) After section 9I

Insert

“PART 3A – APPOINTMENT, ENROLMENT, SERVICE AND DISCHARGE”

(b) PART 3A – OVERSEAS CONTINGENTS

Repeal the part, substitute

“PART 3B – OVERSEAS CONTINGENTS”

12 PUBLIC HOLIDAYS ACT [CAP 114]

Schedule

- (a) Delete “National Unity Day (29 November)”, substitute “Constitution Day (5 October)”
- (b) Delete “Constitution Day (5 October)”, substitute “National Unity Day (29 November)”

13 PUBLIC PROSECUTOR ACT [CAP 293]

(a) References to “Deputy Public Prosecutor”

Delete all references to “Deputy Public Prosecutor” (wherever occurring), substitute “Assistant Public Prosecutor”

(b) References to “Assistant State Prosecutor” and “Assistant State Prosecutors”

Delete all references to “Assistant State Prosecutor” and “Assistant State Prosecutors” (wherever occurring), substitute “Summary Prosecutor” and “Summary Prosecutors”

(c) Section 2 (Definition of “State Prosecutor”)

Repeal the definition, substitute

““State Prosecutors” means the Principal State Prosecutor, Senior Prosecutors and State Prosecutors appointed under section 21;”

(d) Section 21

Repeal the section, substitute

“21 State Prosecutors

- (1) The Public Prosecutor is to appoint the following State Prosecutors to the Office:
 - (a) a Principal State Prosecutor; and
 - (b) Senior State Prosecutors; and
 - (c) State Prosecutors.
- (2) The appointment of State Prosecutors under subsection (1) must follow a fair and transparent selection process and must be based on merit.
- (3) A person must not be appointed to any of the positions under subsection (1), unless he or she has a law degree from a recognised tertiary institution or similar qualification.
- (4) The Public Prosecutor is to determine the remuneration and terms and conditions of employment of the State Prosecutors.
- (5) Despite subsection (2), a person may be appointed as a State Prosecutor for a period not exceeding 6 months without a selection process.”

(e) Paragraph 22(1)(c) and (d)

Repeal the paragraphs.

(f) After section 22

Insert

“22A State Counsel

The Public Prosecutor may appoint a legal practitioner admitted in Vanuatu or another recognised jurisdiction to be a State Counsel for the purpose of any prosecution or a class of prosecution.”

14 QUARRY ACT NO. 9 OF 2013

(a) After subsection 9(2)

Insert

“(2A) A custom owner or a quarry company who intends to carry out an aggregate prospecting must engage a certified aggregate prospector.

SCHEDULE
MINOR AMENDMENTS

(2B) The Commissioner is to certify an aggregate prospector if he or she has obtained:

- (a) a tertiary qualification in Earth Science from a recognised tertiary institution; and
- (b) at least 5 years' experience in the quarry industry.”

(b) After subsection 19(1)

Insert

“(1A) In addition to subsection (1), a quarry permit is required if:

- (a) the custom owner sells or intends to sell, any extracted building minerals for use outside the land from which they are extracted; or
- (b) in the opinion of the Commissioner, the extraction of building mineral is:
 - (i) not for the use of customary purposes as provided under subsection 19A(2); or
 - (ii) detrimental to the public safety, health and interest.”

(c) After section 19

Insert

“19A Exemption

- (1) Despite section 19, a quarry permit is not required for the extraction of building minerals on land by the custom owner for customary purposes.
- (2) For the purpose of this section, **customary purposes** include any personal use of building minerals by the custom owner for non-commercial purposes.
- (3) To avoid doubt, **customary purposes** does not include block manufacturing for sale.”

(d) After section 20

Insert

“20A Quarry over disputed customary land

- (1) The Commissioner must not issue a quarry permit to an applicant under section 19 or 20 who intends to establish or operate a quarry over a land to which ownership is being disputed.
- (2) Despite subsection (1), the Commissioner may only issue a quarry permit to an applicant under subclause (1), if he or she has obtained the written consent of all the disputing custom owners approving this quarry to be operated over the disputed land.”

(e) Subsection 50(4)

Delete “company”

15 REPRESENTATION OF THE PEOPLE ACT [CAP 146]

(a) Paragraph 9(1)(b)

Delete “qualifying date”, substitute “closing date”

(b) Subsection 9(6)

Repeal the subsection, substitute

- “(6) For the purposes of this section and subject to subsection (7), the registration is open throughout the year to a person who wishes to apply for registration in the electoral list.
- (7) The closing date for registration in the electoral list is 6 weeks prior to a polling date.”

(c) Subsection 9A(8)

Repeal the subsection, substitute

- “(8) For the purposes of this section and subject to subsection (9), the registration is open throughout the year to a person who wishes to apply for registration in the electoral list for a polling district.
- (9) The closing date for registration in the electoral list for a polling district is 6 weeks prior to a polling date.”

(d) Subsection 9B(2)

Delete “1st day of July”, substitute “the closing date”

(e) Subsection 16(1)

Repeal the subsection, substitute

“(1) Subject to subsection (1A), the electoral list is available for inspection by the public throughout the year.

(1A) The electoral list is not available for inspection by the public one week before polling date.”

(f) Subsections 16(3) and (4)

Delete “end of the inspection period”, substitute “closing date for inspection”

(g) Subsection 20(1)

(a) Delete “end of the inspection period”, substitute “closing date for inspection”;

(b) Delete “section 16(1)”, substitute “subsection 16(1A)”

(h) Subsection 20(2)

Delete “on the 1st day of July”, substitute “before polling date”

(i) After section 24

Insert

“24A Arrangement for payment of any rates, charges or other debts due to the Government or Government agency

(1) For the purposes of paragraph 24(1)(ca), an arrangement with a candidate for payment of any rates, charges or other debts due to the Government or a Government agency after the period set out in that paragraph does not qualify a person for election to Parliament.

(2) A person must provide to the Electoral Commission, an original copy of the receipt certifying that the Government or Government agency has received such payment referred to in paragraph 24(1)(ca).”

16 ROAD TRAFFIC (CONTROL) ACT [CAP 29]

Subsection 59(2)

Repeal the subsection, substitute:

“(2) Without limiting subsection (1), the Regulations may:

(a) prescribe fees to be charged in respect of matters under this Act; or

(b) prescribe vehicle standards as the Minister considers necessary; or

(c) prescribe activities which are prohibited when driving a vehicle along a public road; or

SCHEDULE
MINOR AMENDMENTS

- (d) prescribe fines not exceeding VT500,000 for breach any Regulations made under this section.”

**17 TELECOMMUNICATIONS AND RADIOCOMMUNICATIONS
REGULATION ACT NO. 30 OF 2009**

Subsection 31(1)

Delete “27”, substitute “26”

18 VANUATU FINANCIAL SERVICES COMMISSION ACT [CAP 229]

Schedule – After item 18

Insert

“19. E-business Act [CAP 264]”